



City of Philadelphia

INTEGRITY AND ACCOUNTABILITY OFFICE

PHILADELPHIA POLICE DEPARTMENT

DISCIPLINARY SYSTEM

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TABLE OF CONTENTS

	Page
I. INTRODUCTION.....	1
II. STUDY METHODOLOGY AND LIMITATIONS.....	2
III. OVERVIEW OF THE DISCIPLINARY PROCESS.....	6
A. PBI Charging Unit.....	7
B. Command Level Discipline.....	11
C. PBI and Commissioner's Direct Action.....	12
IV. GENERAL OVERVIEW OF DISCIPLINARY ACTIONS.....	14
A. Disciplinary Database.....	14
B. Data Analysis.....	20
C. Disciplinary Trends.....	23
1. Article I – Conduct Unbecoming an Officer.....	23
a. Violations of Sections 1.11 and 1.12.....	24
2. Article II – Intoxication.....	27
3. Article IV – Neglect of Duty.....	28
V. POLICE BOARD OF INQUIRY.....	30
A. PBI Facilities and Resources.....	30
B. PBI Case Backlog.....	32
C. Representation.....	35
D. PBI Boards.....	36
VI. INDIVIDUAL DISCIPLINARY ACTIONS.....	38
A. Detail and Consistency.....	38
B. Failed to Appear/Late for Court.....	44
C. Automobile Accidents.....	44
D. Lapsed/Suspended/Revoked Driver's Licenses.....	48
E. Contributing Factors.....	49
1. Supervisor Accountability.....	49
2. Conclusion.....	52
VII. ADDITIONAL CONSIDERATIONS.....	53
A. Complainant Notification.....	53
B. Performance Evaluations.....	54
C. Labor Arbitration System.....	57
1. Aberrant Arbitration Opinions.....	57
2. Reinstatements After Arrest.....	61
3. Delays.....	62
EXHIBIT A – Philadelphia Police Department Disciplinary Code.....	64

I. INTRODUCTION

In September 1996 the City of Philadelphia entered into a Settlement Agreement with the National Association for the Advancement of Colored People, the American Civil Liberties Union, and the Police-Barrio Relations Project, in response to litigation initiated by these groups arising from the investigation of and prosecutions for corruption and misconduct in the 39th Police District scandal - one of the most damaging and expensive police scandals in Philadelphia's history. The lawsuit alleged widespread and pervasive systemic deficiencies in the Philadelphia Police Department which contributed to an ongoing cycle of scandals that rocked the Department, cost taxpayers tens of millions of dollars, and severely eroded public trust and confidence in the integrity and effectiveness of its police force.

The Agreement sets forth a comprehensive plan for reform in the Philadelphia Police Department. The goal of the Agreement is to minimize and deter police corruption and misconduct to the greatest extent possible, and thereby enhance public confidence in the Philadelphia Police Department.

To assist in meeting this goal, the Agreement called for the creation of a permanent Integrity and Accountability Office (IAO) to analyze and critique accountability and corruption control policies, to identify systemic deficiencies that give rise to or permit corruption and misconduct within the Police Department, and to make recommendations for change. The IAO is responsible for monitoring and auditing departmental policies, practices, and operations as they relate to the detection and control of misconduct and corruption in the Department. In order to effectuate the broad duties of the Office, the IAO at its discretion, can initiate studies and audits, has access to virtually all Department records and personnel, and can make its findings public. Over the past three and a half years the IAO has had the access and independence necessary to carry out its responsibilities, has issued several reports covering a broad range of issues, and has presented recommendations - many of which have been implemented by the Police Department.

The parties to the Settlement Agreement intended that the IAO would work cooperatively with the Police Commissioner and other City departments. The IAO is also

currently answerable to United State District Court Judge Stewart Dalzell, who has jurisdiction over the City's compliance with the terms of the Agreement. However, by virtue of our essential function to monitor and audit the Police Department, and in order to remain effective and credible, the IAO must exercise independent judgment in reporting findings and making recommendations. This independence also means that the IAO analyses, critiques, and recommendations are solely those of the IAO. This report should not be read as expressing the policies or positions of the government of the City of Philadelphia, or the opinions, views or beliefs of the Mayor, the Police Commissioner, the City Solicitor, or any other official of the City of Philadelphia.

In this report, the IAO undertakes a comprehensive analysis and assessment of the Philadelphia Police Department's disciplinary system. The purpose of this study is to review the Department's response to corruption and misconduct by its sworn officers, and to ascertain whether, and to what extent, these responses are appropriate, reasonable, and effective in addressing identified misconduct and corruption.

II. STUDY METHODOLOGY AND LIMITATIONS

The findings and recommendations contained in this report are based upon review and analysis of the following:

1. Police Department databases containing information about disciplinary actions in the Department from 1975 through 1999;
2. Audit of approximately 400 disciplinary action files maintained by the Department's Police Board of Inquiry (PBI), as well as review of Internal Affairs records, personnel and Background Investigation Unit files, as needed, to further assess specific disciplinary actions;
3. Review of PBI case tracking logs for 1999 and 2000 to date;
4. Review of the Department's Disciplinary Code, Directives, Memoranda, training curriculum, and other policies and practices related to the disciplinary system;
5. Observation of operations and disciplinary hearings at the Department's Police Board of Inquiry (PBI);

6. Review of one hundred and thirty labor arbitration opinions rendered between 1990 and 1999 in which arbitrators reinstated police officers dismissed for misconduct or corruption, upheld dismissals, or reduced or rescinded suspensions, transfers or demotions imposed by the Police Department.
7. Follow-up of approximately fifty completed IAD investigations in which allegations of misconduct were sustained to determine what, if any, disciplinary actions were initiated as a result of the investigations.
8. Interviews with Department personnel and individuals in the legal and labor communities who are familiar with and work within the Police Department's disciplinary and labor arbitration systems.

Discipline is typically imposed as a means of punishing inappropriate behavior and deterring similar future misconduct. To be effective, the disciplinary process should be swift and certain, and the penalty imposed rationally and reasonably related to the misconduct. Such a system should be flexible enough to accommodate the fact-sensitive nature of each disciplinary action, yet at the same time, maintain consistency and predictability in approach and outcome. Properly executed, such a system treats the individual fairly and reasonably while at the same time providing similar treatment to individuals in similar circumstances. Accomplishing these objectives, and maintaining this delicate balance, requires that organizational values and standards be clearly and consistently defined and communicated, and that Department personnel responsible for assessing and imposing discipline are committed to ensuring that those standards are enforced despite a wide array of pressures from both within and outside the organization. These individuals also need all relevant and necessary information with which to make informed, well-reasoned determinations.

A myriad of factors influence disciplinary actions in the Police Department including the nature of and the circumstances surrounding the infraction, the police officer's employment and disciplinary history, whether the misconduct was intentional or unintentional, external political, social, and economic pressures, the makeup and orientation of the PBI panel, and the cooperation and credibility of police and civilian witnesses. If the disciplinary action is challenged by the officer through the labor

grievance process, the predilections of the arbitrator, the quality of legal representation at the arbitration hearings, the extent to which Departmental policies and practices support the disciplinary action, and the availability and quality of evidence and witnesses presented at the hearings are additional determinative factors.

Discipline is also susceptible to subjective implementation since supervisors, commanders, and Police Commissioners have different views regarding disciplinary infractions and measures which are shaped by their personal and professional experiences and influences. The wide variations in personalities, predilections and priorities of the Department's supervisors and commanders also impact on why, when, and how an officer is disciplined. Those who are more authoritarian, detail-oriented, and secure in their positions may be more likely to establish effective systems for documenting employee performance, insist on adherence to Departmental policies, and impose formal discipline. Supervisors and commanders who are more laissez-faire, lazy, naïve, or adverse to alienating or angering personnel under their command, may be less likely to impose discipline.

Keeping these considerations in mind, and within the limitations of this study, we can confidently state that in both policy and practice, the Philadelphia Police Department is currently intolerant of serious corruption that has been identified and proven. Officers whose conduct is criminal and corrupt are dismissed from the force, and prosecuted if warranted.

Our study identified a well entrenched disciplinary system enhanced by several recently instituted reforms, such as Command Level Discipline, and the creation of the PBI Charging Unit that have contributed to the overall effectiveness of the disciplinary system. In many of the disciplinary actions it appeared that police officers were reasonably disciplined in light of the misconduct alleged and the established facts.

Additionally, the Department continues to support and strengthen the Internal Affairs Bureau (IAB), which is responsible for conducting a wide range of investigations into police misconduct and corruption. There has been steady increase in the number, and improvement in quality of, proactive and internal investigations that is indicative of a Department more oriented towards self-initiated monitoring and personnel oversight, particularly as it relates to corruption and misconduct. IAB's databases, which are

valuable tools in detecting problems and trends related to corruption and misconduct, continue to improve and expand, and are utilized more consistently by authorized command staff.

Despite these positive trends and practices, this study uncovered deficiencies in the disciplinary system and a lack of clarity in the Department's disciplinary standards which undermine the overall effectiveness of the disciplinary system, contribute to a system that is somewhat inscrutable, inconsistent, and lacking in focus, and validate and perpetuate the widespread organizational perception that discipline is meted out selectively and capriciously. Some of the problems identified in this report have developed over decades and can be attributed to an increasing number of restrictions and limitations placed on the Department's ability to manage its personnel as a result of management concessions in labor contract negotiations. The solutions to some of these problems are therefore not conducive to quick fixes or easy resolution.

This study of the disciplinary system also highlighted various personnel management issues including supervisory accountability and performance evaluations, which have been addressed in prior IAO reports, but which warrant reexamination since it is evident that problems in these areas still persist. It also became apparent that the labor arbitration system directly impacts on the Department's efforts to discipline its personnel and for this reason a brief examination of the labor arbitration system in the context of disciplinary actions is also included in this report.

III. OVERVIEW OF THE DISCIPLINARY PROCESS

With few exceptions, the Department's Disciplinary Code and the process by which a sworn officer is subject to formal* discipline has remained fundamentally the same for decades.

The current Disciplinary Code ("Code") for the Philadelphia Police Department, which is attached as Exhibit A, has remained virtually the same since the early 1980's. The Code consists of five separate Articles of misconduct including: Article I – Conduct Unbecoming an Officer, Article II – Intoxication, Article III - Insubordination, Article IV – Neglect of Duty, and Article V – Disobedience of Orders, with each Article containing numbered sections specifying related prohibited conduct. This Code should be used for reference throughout this study.

Once an officer is deemed to have violated one or more provisions of the Code the commanding officer is required to prepare the disciplinary action reports which includes the details of the infraction, the section(s) of the Disciplinary Code that have been violated, an employee evaluation, and the commander's recommendations for action. These reports are referred to as the "75-18's", or simply the "18's", which indicates the number of the form utilized by the Department for this purpose.

Once the 75-18's are completed, they are reviewed by a Lieutenant assigned to the Police Board of Inquiry Charging Unit to insure that the charges brought against an officer accurately reflects the allegations of misconduct and to determine whether or not the matter is appropriate for Command Level Discipline.

After the 75-18's are approved and logged in at the PBI, they are returned to the appropriate commanding officer who presents them to the officer, sometimes in the presence of the officer's union representative. The officer is formally notified of the

*It is important to distinguish between formal and informal discipline. Formal disciplinary actions are those which are documented, reviewed, and approved, and which are entered into an officers' personnel file and the Department's discipline database. Informal disciplinary actions such as counseling, assigning officers to undesirable assignments, and various forms of peer pressure, are generally undocumented and thus not subject to meaningful review and audit. They are, nonetheless, utilized by Department commanders and supervisors.

For a variety of reasons, including the steady increase in union challenges to both informal and formal disciplinary actions, supervisory concern about being subject to complaints alleging discrimination, and current shift practices which result in inconsistent supervisory oversight of officers, commanders and supervisors interviewed as part of this study generally agree that utilization of informal methods of discipline is decreasing.

charges, and the 75-18's are then reviewed through the officer's chain of command to the Department's Executive Officer, who typically assigns the matter to the PBI, or Command Level Discipline for resolution.

A. PBI Charging Unit

The establishment of a central disciplinary Charging Unit at the PBI in December 1999 by Police Commissioner John Timoney was an important innovation in the Department's disciplinary system. Prior to the creation of this Unit, other audits conducted by the IAO revealed a significant lack of consistency in charging under the Disciplinary Code, as well as numerous instances in which allegations of misconduct which had been sustained by Internal Affairs investigations were not included in the disciplinary charges prepared by the offending officer's commander, and thus were never addressed by the Department. These oversights, whether intentional or not, went undetected because the Department had no effective tracking mechanism to determine whether, and to what extent, allegations of misconduct sustained by IAB and other investigating units in the Department became the subject of disciplinary actions. Furthermore, the Department had no effective case tracking procedures to ensure that disciplinary actions being reviewed through the chain of command were ultimately returned to the PBI or were legitimately resolved in some manner.

According to PBI personnel, the Lieutenant assigned to the Charging Unit is required to review all IAD investigations that are the basis of the disciplinary actions. However, this step in the process is not documented, IAD investigation numbers are not always listed on the PBI records, nor are the IAD investigations routinely included in the disciplinary file. While there is no reason to doubt that this practice occurs, there is currently no means to monitor or audit compliance with this requirement. For quality assurance, IAO recommends that a copy of any Departmental investigation that is the basis for a disciplinary action be included in the disciplinary file, that the appropriate investigation number be consistently noted on the PBI intake log, and that some type of check-off be included to indicate whether or not the investigation was received and reviewed by both the commander and personnel in the Charging Unit. This will also

ensure that a copy of the IAD investigation is readily accessible to both the Advocate and the PBI panel members who should review investigations prior to the hearing.

In the summer of 1999, the Charging Unit improved its ability to track disciplinary actions by logging the date when charges are approved by PBI as well as the date that the file is returned to PBI after review through the chain of command, to ensure that disciplinary actions do not get lost in the bureaucracy or are not legitimately resolved. However, there is no established policy that dictates the PBI response if a disciplinary file is not returned to PBI for processing in a timely fashion and there are no records to indicate whether or not PBI conducted inquiries into the status of these apparently unresolved actions. These system weaknesses contribute to the widespread perception that certain Department personnel are immune from accountability and that disciplinary standards are not equally applied and enforced. It is therefore essential that an effective disciplinary action tracking system and meaningful accountability in these areas are developed, implemented, and enforced.

The Charging Unit has also been instrumental in reducing inaccurate, incomplete, and inconsistent charging. However, problems still persist. Disciplinary actions were identified in which officers were involved in separate incidents involving the same type of offense (i.e. auto accidents, failing to appear in court) within the reckoning period* of the first offense. However, in the disciplinary actions for each offense, the officers were charged with different sections of the Code. For example, in cases involving excessive force, officers have been charged with either section 4.20 ("Failure to comply with any Commissioner's Orders, Directives, Regulations, etc.") 5.18 ("Improper use, handling or display of firearms"), 1.45 ("Using rude or insulting language or conduct offensive to the public while on duty"), or "Unspecified". Officers who fail to appear, or are late for court, have been charged under sections 4.20 ("Failure to comply with any Commissioner's Orders, Directives, Regulations, etc.") 4.35 ("Failure to report as witness when duly notified or subpoenaed"), 5.27 ("Failure to report on or off assignment as

*The "Reckoning Period" as defined by the Disciplinary Code is "that period of time during which an employee is expected to have a record free of the same type of offense he/she was found guilty of previously. All reckoning periods shall be computed from the date the first offense was committed. Second, third and subsequent violations of the same section committed during the reckoning period of the first violations shall be treated as the second, third, etc., offenses."

prescribed”), or 5.33 (“Tardiness”). Officers involved in auto accidents have been charged with 4.20 or 4.65 (“Loss or damage to Police Department property resulting from negligent action or from failure to properly care for same”).

In other cases, one disciplinary action was brought against an officer for several similar, but separate, offenses within the reckoning period. By consolidating several similar offenses under one action and Code section, or using different Code sections to address similar offenses, progressive discipline as mandated by the Disciplinary Code was circumvented.

Finally, we reviewed cases in which relevant Code sections were not included in the 75-18’s despite evidence indicating that the offenses occurred. These problems indicate further room for improvement.

1. Examples of Charging Defects Identified

- An officer was involved in two preventable auto accidents within the reckoning period of the first infraction. Both accidents were consolidated into one 75-18 and the officer was charged with one count of Section 4.20 (failure to comply with Commissioner’s Orders, Directives, Regulations, etc) rather than with two counts of 4.20 for each offense. The officer received a two-day suspension. Since there were two separate incidents, progressive discipline should have been applied for the second accident and the officer should have received a minimum of five days suspension.
- An officer was involved in an auto accident, charged with 4.65 (loss or damage to Police Department property resulting from negligent action or from failure to properly care for same) and received a reprimand. The Officer was in second auto accident within reckoning period of the first incident, charged with 4.20 and received a one-day suspension. As per the Code, the officer should have received a minimum penalty of a five-day suspension. However, by using different Code sections for the same offense, progressive discipline was circumvented.
- An officer arrested a suspect for assault on police and then subsequently released the suspect from the district cellblock without charging the suspect or a supervisor’s authorization. The Officer also replaced the original 75-48 (Incident report) with a 75-48 indicating that the encounter with the suspect was only a pedestrian stop and not an arrest and then forged another officer’s name on the altered 75-48. The officer was charged with Sections 1.11, 4.20, and 4.25 and not with Section 1.15 (“knowingly and willfully making a false entry in any Department report or record.”).
- An officer left his patrol assignment to go to the scene of a minor auto accident involving his girlfriend. The officer was only charged under section 1.45 for rudeness to other driver involved in accident and not for violations of section 4.50 (failure to properly patrol beat or sector, unauthorized absence from assignment) which also occurred as part of this incident.

1. Examples of Charging Defects Identified (Continued)

- An officer arrested a suspect for disorderly conduct and subsequently released the prisoner (his tour of duty was ending and he wanted to leave) without properly identifying the suspect, preparing a summary citation or 75-48, or entering the incident into his patrol log. The Officer was charged with Section 4.20 alone and he received a one-day suspension. In this same case, the officer's supervising Sergeant was aware of officer's inappropriate conduct and failed to take appropriate action. The Sergeant was charged with Section 4.20 only, and not 4.15, and received a reprimand.
- While off-duty an officer discharged his firearm, failed to notify police radio of the discharge, and then altered the scene before it could be processed. The officer was charged with two counts of section 4.20 and not section 5.18 ("Improper use, handling or display of firearms") as would have been warranted. The officer was found guilty of one count of 4.20, not guilty of the second count with no explanation and received a one-day suspension. (This disciplinary action occurred within the reckoning period of a prior 4.20 disciplinary action in which the officer was found guilty and received a reprimand.)
- A sergeant failed to attend a mandatory supervisor's meeting despite receiving two written notices from his commander. The Sergeant was charged with section 4.20 and not section 3.01 ("refusal to obey proper orders from superior officer").
- An officer accidentally discharged his firearm during a vehicle stop and was found in violation of Department policies regarding use of deadly force. The officer was charged with section 4.20 only and not 5.18 ("Improper use, handling or display of firearms") and received a two-day suspension.
- An officer was late reporting for duty on six separate occasions. The officer was charged with one count of section 5.33 and received a one-day suspension.
- In 1997 an officer was charged with and found guilty of sections 4.20 and 4.60 ("failure to remove keys from police vehicle when unattended") and received a two-day suspension. In 1999, this same officer was charged with and found guilty of sections 4.20 and 4.65 ("Loss or damage to Police Department property resulting from negligent action or from failure to properly care for same"). In that case the officer failed once again to remove the keys from the police car while investigating a disturbance and the officer's car keys, flashlight, gloves, handcuff keys and other items were stolen. The officer received a reprimand and ordered to pay restitution.
- An officer who used excessive force was charged under sections 4.20 and "Unspecified", and not section 1.45 ("conduct offensive to the public") which is the Code section typically used to address excessive force.
- An IAD investigation concluded that a Sergeant who had been called to the scene of a disturbance and informed that a five year old boy had been molested failed to notify the Special Victims Unit, prepare an investigation or incident report as required, transport the victim to the hospital or arrange for transportation. Furthermore, the Sergeant instructed a subordinate officer to prepare an inaccurate 75-48(Incident Report). The Sergeant was only charged with Section 4.25 and received a reprimand. (This same Sergeant was also involved in three auto accidents. The first two accidents did not result in disciplinary actions, the third accident resulted in a reprimand even though the Sergeant struck a child riding a bicycle.)

B. Command Level Discipline

Prior to the implementation of Command Level discipline in 1999 by Police Commissioner John Timoney, the Police Commissioner was the sole person in the Department authorized to impose discipline. Command Level discipline enables commanders to impose discipline directly in disciplinary matters in which the total penalty per offense cannot exceed five days. Under this relatively new policy, an officer is given the option of pleading guilty to the offense in return for a predetermined penalty and a waiver of rights to appeal the penalty. Command Level discipline offers the benefits of quick, administratively simple resolutions to relatively non-serious infractions, precludes protracted appeals of disciplinary actions, eradicates the officers' uncertainty about penalties, enables commanders most familiar with the officer and the circumstances surrounding the infraction to be directly involved in the process, and eases the PBI's chronic case backlog.

Police commanders interviewed as part of this study were virtually unanimous in their approval of Command Level discipline and consider it an important and positive innovation. Our review of disciplinary actions in which Command Level discipline was utilized revealed the following problems:

- Cases in which improper charging occurred and unreasonably lenient penalties were imposed were identified during our audit of disciplinary files in which Command Level discipline was utilized. Problems with progressive discipline were particularly prevalent in the context of officer-involved auto accidents and officers who failed to appear, or were late, for court.
- Officers may opt to negotiate a guilty plea at the PBI even if the option of Command Level discipline was not approved or if the officer was offered, but rejected, Command Level discipline. However, the Department's disciplinary database does not differentiate between Command Level negotiated guilty pleas versus PBI guilty pleas. This practice makes it difficult to determine the extent to which Command Level discipline is being utilized in the Department without manual review of individual disciplinary files. We recommend that the database be revised to distinguish between the different guilty pleas, which would provide a more accurate picture of the disposition of disciplinary actions.

C. Police Board of Inquiry and Commissioner's Direct Action

If the disciplinary action is not appropriate for Command Level discipline, it will typically be assigned to the Department's Police Board of Inquiry (PBI) for resolution. The PBI is responsible for processing and conducting internal administrative hearings at which the disciplinary charges against officers are presented. This is referred to in the Department as "being fronted" or "going to the front". At the PBI hearing, the officer has the opportunity to rebut the charges, and present evidence and witnesses in his or her defense. Officers are represented by attorneys provided by their labor union. The Department is represented by the Department "Advocate", a position historically held by someone who has achieved the rank of Captain, but who is not an attorney.

The matter is presented to a panel, or Board, of three sworn members of the Department who are chosen by the Advocate. One Board member must be of equal rank of the accused, and the other two of higher rank. After hearing evidence presented by both sides, the Board considers the case in private, makes a determination for each of the charges, and a penalty recommendation for each charge in which there is a finding of guilt. The majority vote of the Board is determinative. The Board's recommendations are sent to the Police Commissioner, who is the final arbiter of all PBI penalty determinations and can accept or revise the PBI penalty recommendations. Since the discipline database only indicates the final approved penalty, manual review of each disciplinary file would be required to ascertain the extent to which Police Commissioners accept or revise PBI penalty recommendations. However, in the nearly four hundred files reviewed as part of this audit, approximately twenty PBI penalty recommendations were subsequently revised by a Commissioner, which suggests a low rate of revision. In all but one of these cases a Commissioner increased the penalty recommended by the PBI Board.

The disciplinary file is then sent to the Department's Personnel Unit to impose the recommended penalty, whether it is a reprimand, suspension, restitution, or dismissal.

In some instances a disciplinary action can be resolved directly by the Commissioner through the "Commissioner's Direct Action" (CDA). Different Commissioners have utilized the CDA to varying degrees over the past several decades. As a general rule, and under current practices, the CDA is typically used in the most

serious cases, which warrant immediate dismissal, such as when an officer is arrested for criminal conduct. CDA's have also been utilized in situations where there is a sudden surge in disciplinary actions, which arise from a particular event, or change in management policy. For example, in 1997 and 1998 the Department leadership ordered the aggressive crack down on officers who failed to appear or were late for court hearings. This resulted in hundreds of 75-18's being filed alleging violations of Code sections 4.20, 4.35, 5.27 and 5.33. The PBI was not equipped to handle this deluge and ultimately these actions were resolved by CDA's with the typical penalties ranging from a reprimand to a one-day suspension.

III. GENERAL OVERVIEW OF DISCIPLINARY ACTIONS

A. Disciplinary Database

An overview of disciplinary actions in the Department was obtained through an extensive and multi-queried analysis of the Department's disciplinary database maintained by the PBI. * The PBI disciplinary database was first developed in the 1980's by a police officer with limited direction or guidance from the Department's leadership (disciplinary actions from 1975 until the year of the database's inception were retroactively included in the database). Over the years, as Departmental needs for additional information and data were identified, the database was revised and expanded on an ad-hoc basis. As a result, the PBI disciplinary database presents the following data limitations:

- While it is common for more than three charges to be brought in a single disciplinary action, the database only indicates three Code sections for each case that pertain to the most serious misconduct alleged;
- This audit identified database entries in which a Code section was listed only once, despite the fact that the section of the Code had been charged several times in the 75-18's. For example, an officer missed court on three separate occasions, and the 75-18's indicated three counts of section 4.35, however the database only indicated one count of section 4.35. In another case, an officer was charged with five counts of section 4.20 on the 75-18's, but the database only indicated one count of section 4.20.
- The database does not include the Code sections which were the basis of the disciplinary actions for the year 1990. We were unsuccessful in our efforts to understand how or why this occurred.
- A disciplinary action is only entered into the disciplinary database after the matter has been approved by the Commissioner and appropriate action taken. Approximately a dozen cases were identified in which disciplinary actions that were resolved by PBI were never approved by the Commissioner. In these cases, the recommended penalties were never imposed nor were the actions entered into the

*The IAO would like to acknowledge the assistance of Lt. Brian Wolfson whose prompt responses to the IAO's numerous requests for data were invaluable and greatly appreciated.

disciplinary database. Additionally, not all formal disciplinary actions initiated appeared to have been resolved. For example, in 1999, seven hundred and four formal disciplinary actions were undertaken by the Department, yet as of September 2000 no dispositions were identified in sixty-one of those cases. These cases are also not part of the database. Other cases were identified in which PBI had not been notified of case dispositions that had approved by the Commissioner and forwarded to the Personnel Unit for action. These cases also have not been entered into the PBI database. Finally, some disciplinary actions were identified in officer's disciplinary case files that were not evident in the database.

- With the exception of the Code section(s) charged and the total penalty imposed, the database provides virtually no specific information about the nature of the infraction. It is therefore a barebones informational tool for assessing the disciplinary history of an officer, the reasonableness of the penalty imposed, or the consistency of the disciplinary system as a whole. To obtain a detailed and accurate overview of an officer's disciplinary history requires manual retrieval and review of individual disciplinary files, a cumbersome and time-consuming process that is rarely undertaken by PBI Boards or commanders.

In May 1995 the disciplinary database was expanded to include a "Remarks" field containing alphabetical abbreviations indicating specific types of prohibited conduct. However, the majority of abbreviations simply paraphrase the pertinent Code sections and provide no additional meaningful information or description. For example, violations of section 4.20 are typically notated as "FCC" for "failure to comply with Commissioner's orders, regulations, etc."; violations of section 1.12 are notated as "FS" for "making false statement in official Departmental investigation"; violations of 1.11 indicate "FC" for "failing to cooperate in official departmental investigation"; violations of section 4.15 are notated as "FSU" for "failing to supervise, prefer charge, or take disciplinary action", and so on.

These abbreviations are not utilized in a standard or consistent manner and are, at times, inaccurate. For example, auto accidents are either indicated as "FCC"- "failure to comply with Commissioner's orders, regulations, etc.", "AA"- "auto accident in police vehicle, "ID"- "improper or reckless driving on duty in police vehicle", or "LD"- "loss

or damage to police property caused by neglect". In some entries, the abbreviation in the remarks section did not coincide with the section of the Disciplinary code that were charged. In other entries, abbreviations in the remarks section, such as "RL", "FP", "OLN" "LV", "RT" "EF" were not included in the legend provided by the PBI, and could therefore not be defined without manual review of the individual file.

In order to develop a more accurate, comprehensive and meaningful disciplinary database, the IAO recommends that it be expanded to include more descriptive text describing the nature of the infraction, or at the very least, a comprehensive, meaningful, standardized, consistently and accurately used legend.

- PBI is not automatically informed of changes in PBI case dispositions as result of grievances and arbitrations. The disciplinary database therefore does not accurately reflect the disposition of all disciplinary actions.

Conversely, Departmental units and bureaus are not automatically informed of the existence or disposition of disciplinary actions that are initiated as a result of their investigations in which allegations of misconduct, corruption, or other Departmental violations were sustained. There are cases in which PBI Boards have found officers not guilty despite extensive and expensive Departmental investigations conducted by the Internal Affairs Bureau that sustained allegations of misconduct. In some of these cases, memorandums prepared by PBI Board members explained the grounds for the "not guilty" verdicts; however, in many other cases, the discrepant outcomes were inexplicable and unexplained. In each of these cases, careful review and follow-up was warranted but did not occur.

The absence of any follow-up on these PBI cases prevents the Department's various investigating units from obtaining valuable information and feedback about the quality of their investigations which could prevent future waste of valuable and limited investigative resources, improve the quality of investigations, provide a forum in which to raise issues, identify emerging problems and needs, and improve the morale among some IAB investigators who see the efforts of their intensive investigations discounted or rejected for no documented reasons.

2. Examples of Cases not in Database

- January 1999 – The PBI recommended a ten-day suspension against an officer who was found guilty of improper use of a firearm. As of April 2000, the penalty had not been imposed.
- February 1999 – The PBI recommended a one-day suspension against an off-duty officer found guilty of threatening a civilian with a firearm. As of June 2000, the suspension had not been imposed. (The officer was also found not guilty of section 1.12, without explanation, for giving inconsistent statements to IAD investigators despite strong evidence that this officer was less than candid about the incident. Attempts to locate this officer's personnel file for further clarification were unsuccessful.)
- April 1999 - PBI recommended a thirty-day suspension against an officer found guilty of Section 1.75 for chronically arriving late for work and court. The PBI file revealed that this officer "continuously violated Department policy and has received a total of 49 suspension dates" and that the officer was "marginal, not productive, lacking motivation, and not a team player". As of July 2000, the suspension had not been imposed.
- February 2000 - The PBI found an officer guilty of insubordination and recommended a five-day suspension, which had not been imposed as of June 2000.
- June 1999 - An off-duty officer made a call to police radio falsely alleging that his fiancé was threatening him with a knife. This prompted seven police vehicles to respond to the scene on an "assist officer" call. The officer later admitted that he summoned the police not because he was in danger, but because he wanted to scare his fiancé. The officer was charged with violations of Sections 1.15 and 1.75, yet as of January 2000 the case was still in the pending file and therefore not yet entered into the database.
- January 1999 – The PBI found an officer guilty of improper use of a firearm during a vehicle investigation and recommended a thirty-day suspension that had not been imposed as of September 2000. This was the officer's fourth disciplinary action in less than two years. In one case the officer was found guilty of section 1.25 and received a ten-day suspension. In another case the officer was found guilty of violating section 4.20, but no penalty was imposed.
- An officer was found guilty of section 4.20 and received a two-day suspension in 1997 for failing to transport a prisoner. In 1994 this officer was found guilty of sections 1.15 and 1.75 and received a twenty-five day suspension. Neither of these cases could be located in the database.
- A disciplinary action against an officer who was fired for insurance fraud in 1999 was not in the database. A 1997 disciplinary action under section 4.20 which resulted in a three-day suspension for this same officer was also not in the database.
- 1999 – An officer pled guilty to two counts of section 4.20 for two auto accidents which occurred in one month. The negotiated two-day suspension was apparently never imposed and the disciplinary action was not in the database.

*Since the penalties in these and other cases were never formally executed, these disciplinary actions were never entered into the database.

For these reasons, the PBI database should be integrated in some manner with relevant databases maintained by other units and Bureaus in the Department such as the Internal Affairs Bureau, the Accident Investigation Division, the Human Resources Bureau and the Personnel Unit to enable PBI to incorporate subsequent penalty revisions and other changes to disciplinary actions into its database. Such an initiative should be considered as part of the Police Integrated Information Network computer system project that is still in the development stages. At a minimum, consistent and meaningful interaction between these units regarding case dispositions should immediately be established.

- It is not uncommon for a year, in some cases, several years, to elapse between the date of the incident resulting in the disciplinary action to the day it arrives at PBI for processing and disposition. In many cases, several additional months or longer can elapse before the matter is approved by the Commissioner and forwarded to the Personnel Unit for action.

PBI assigns a number to each case based on the year that PBI first receives the 75-18's for review and approval, and not the year the infraction occurred. As a result, this database is not useful in assessing disciplinary trends and problems in a timely fashion, in determining whether or not similar offenses occurred within the reckoning period thereby requiring progressive discipline, or in tracking cases to determine the status of a disciplinary action or whether the appropriate sanctions were imposed. Manual review of individual disciplinary and personnel files is required to obtain this information. This is a time-consuming and cumbersome process that should be streamlined and standardized.

Consideration should be given to adding the following fields to the discipline database:

- the date of incident resulting in the disciplinary action;
- the date PBI first approves the charges;
- the date that the file is returned to PBI for disposition,
- the date PBI disposes of the case,
- the date of the Commissioner's approval or revision;
- any subsequent penalty revision and the reason for the revision; and

- date(s) when the penalty was imposed or other recommended action carried out, such as counseling, training, psychological testing etc. There is currently no efficient or reliable method for tracking compliance with PBI recommendations.

- Separate penalties are assigned for each Code section in which there is a finding of guilt, however, the disciplinary database only indicates the total penalty imposed. For this reason, manual review of individual disciplinary files would be required to assess the reasonableness and consistency of penalties on individual charges, rendering the database of minimal value as an informational tool in this regard.

If an officer is found guilty of just one of the charges, no matter how minor, and not guilty of all the serious charges, then the disciplinary action is considered a “guilty” for statistical purposes. A disciplinary resolution is only considered a “not guilty” if the officer is found not guilty of each and every charge preferred. This method of computing disciplinary outcomes skews the PBI statistics in favor of a greater number of guilty dispositions and does not provide an accurate picture of how disciplinary actions are actually resolved.

Furthermore, the terms “not guilty” and “none” are used interchangeably in the database. The term “none” is also used to indicate cases that are closed without finding, such as when an officer retires, resigns, was dismissed on other charges, or the case was nolle prossed or withdrawn. In some cases, the term “none” was used to indicate a Commissioner’s Direct Action. The terms “guilty plea” and “Commissioner’s Direct Action” are also used interchangeably. A standardized coding policy for disciplinary dispositions should be devised to avoid confusion, assure consistency, and provide a more accurate picture of the resolution of each disciplinary matter.

The Department’s methods for categorizing disciplinary dispositions and its resultant statistics on disciplinary case findings are so flawed as to preclude meaningful analysis of case dispositions without an investment of significant time resources. For this reason, this study will not be providing a general statistical overview of the dispositions of disciplinary actions, but rather will focus on targeted Code sections and individual case files.

TABLE ONE - Disciplinary Actions - Articles 1, 2, 3, and 4 1980-1999

Code Section	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Total	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
1.01	3	0	5	6	16	8	11	0	0	0	49	---	1	0	1	0	0	0	1	1	1	5
1.05	0	1	0	3	3	11	0	0	0	0	13	---	1	0	1	0	0	0	1	1	1	5
1.10	4	0	2	0	4	3	3	0	6	0	22	---	0	0	0	0	2	0	0	0	0	2
1.11	0	0	0	0	0	0	7	5	11	9	32	---	3	9	9	3	3	11	30	20	14	102
1.12	0	0	0	0	0	3	4	7	7	7	28	---	11	7	15	7	9	13	26	33	34	155
1.15	19	17	19	9	8	15	22	9	10	10	138	---	11	15	20	13	15	13	13	30	10	140
1.20	1	0	2	0	0	0	2	0	0	4	9	---	0	0	0	0	0	0	0	0	0	0
1.25	2	0	2	2	1	3	4	3	6	2	25	---	1	6	5	1	0	3	3	2	8	30
1.35	2	9	8	3	7	1	5	2	5	3	45	---	0	7	8	15	3	5	9	3	11	61
1.40	2	0	1	0	1	0	0	0	0	0	4	---	1	0	0	0	0	0	0	0	0	1
1.45	33	25	25	30	21	18	14	8	15	10	199	---	27	23	34	31	25	31	40	37	38	286
1.50	0	1	1	0	0	0	0	0	1	0	3	---	0	0	0	0	0	0	1	2	0	3
1.60	6	2	0	1	1	1	1	0	0	1	13	---	1	1	0	0	1	0	0	0	0	3
1.75	56	37	32	28	53	48	61	45	52	24	436	---	38	28	34	35	36	43	64	60	43	381
1.80	0	0	0	0	0	1	6	2	1	4	14	---	8	3	4	2	1	11	8	5	3	45
Unspec	0	0	0	0	0	0	0	0	0	0	0	---	0	0	0	0	0	0	0	1	20	21
2.01	5	5	1	2	2	2	1	0	0	2	20	---	0	1	1	0	1	0	0	1	0	4
2.05	0	0	0	1	0	0	0	0	0	0	1	---	0	1	0	0	0	0	0	0	0	1
2.10	1	1	0	1	0	2	2	1	0	11	19	---	1	1	0	0	0	0	0	1	1	4
2.15	0	0	0	1	0	0	0	0	0	0	1	---	---	---	---	---	---	---	---	---	---	0
3.01	12	7	9	6	5	7	11	16	4	5	82	---	3	2	12	12	17	6	19	22	17	110
3.05	8	3	4	8	4	6	7	6	3	2	51	---	5	5	9	10	6	5	9	11	8	68
4.01	15	18	14	18	23	17	14	18	11	14	162	---	22	12	26	13	12	12	14	6	19	136
4.05	17	2	7	14	2	3	2	2	1	1	51	---	1	2	2	3	3	3	2	1	---	17
4.10	10	7	5	9	7	10	19	7	8	13	95	---	6	4	8	13	3	7	15	5	11	72
4.15	143	13	16	10	11	9	3	14	7	10	236	---	4	4	12	11	6	2	11	14	13	77
4.20	54	88	67	72	60	60	56	57	64	207	785	---	50	40	86	100	214	254	249	854	389	2227
4.25	16	11	9	10	11	1	12	11	3	7	91	---	8	11	36	21	14	20	19	29	34	192
4.35	6	6	8	11	5	5	2	6	3	1	53	---	9	4	4	3	1	66	80	255	26	448
4.40	6	8	4	1	4	3	4	4	5	8	47	---	2	4	15	23	2	7	10	12	5	80
4.50	70	70	58	48	22	21	30	30	17	10	376	---	17	13	19	21	15	7	21	20	20	153
4.60	1	3	7	2	0	3	0	0	1	1	18	---	1	0	0	0	1	0	0	1	2	5
4.65	16	21	16	23	18	17	17	8	21	24	181	---	29	12	28	20	42	33	14	146	24	348

TABLE TWO – Disciplinary Actions Article 5 1980-1999

Code section	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Total	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
5.01	2	0	1	0	14	16	0	2	0	0	35	--	0	0	0	0	0	0	2	0	0	2
5.02	0	1	0	0	0	0	0	0	0	0	1	--	0	0	0	0	0	0	0	0	0	0
5.03	0	1	0	0	0	0	0	0	0	0	1	--	0	0	0	0	0	0	0	0	0	0
5.06	1	8	3	0	1	0	0	2	1	0	16	--	0	0	0	0	1	0	0	0	0	1
5.09	7	0	0	0	2	0	0	0	0	0	9	--	2	0	0	0	1	0	0	0	0	3
5.12	42	46	32	24	33	27	26	31	17	23	301	---	1	1	0	1	0	4	1	0	2	10
5.13	0	0	2	0	1	0	1	3	1	0	8	---	0	0	1	0	0	0	0	0	0	1
5.15	9	6	7	13	4	2	8	6	4	6	65	---	6	7	10	7	3	8	3	2	8	54
5.18	9	2	6	11	7	4	5	6	6	6	62	---	17	9	15	11	9	5	20	13	18	117
5.24	2	9	3	5	2	2	2	1	0	0	26	---	1	1	0	0	0	0	2	1	0	5
5.27	2	1	1	7	2	3	4	2	3	2	27	---	1	0	0	2	3	4	4	5	3	23
5.33	5	1	7	4	4	6	10	9	5	5	59	---	2	0	2	1	1	43	18	40	4	111
5.36	8	2	2	1	3	2	2	2	2	1	25	---	1	0	0	0	2	0	0	0	1	4
5.39	4	6	0	1	4	2	1	3	0	0	21	---	1	0	2	2	0	0	0	2	0	7
5.48	1	1	1	5	2	8	5	0	1	1	29	---	0	0	1	3	5	2	4	5	2	22
5.57	0	0	0	1	0	1	0	0	0	0	2	--	0	0	0	0	0	0	1	1	0	2

Taking into account these data inadequacies, Tables One and Two on the following pages, provide a retrospective of what most likely represents a significant number of the formal disciplinary actions, by Code section, undertaken by the Department over the past nineteen years.

B. Data Analysis

These Tables are stark indication of the Department's reliance on a relatively limited number of Code Sections, such as Sections 4.20, 1.75, and 1.45, when bringing disciplinary actions. These Code sections are vague and overly broad, encompass a wide range of misconduct, and carry penalties ranging from a reprimand to dismissal. For example, in two decades, Section 4.20 ("Failure to comply with any Commissioner's Orders, Directives, Regulations, etc., or any oral or written orders of superiors") of the Code has been charged over three thousand times with penalties ranging from a reprimand to dismissal. In the same time period, Section 1.45 ("Using rude or insulting language or conduct offensive to the public while on duty") has been charged over four hundred times for misconduct ranging from low level rudeness warranting a reprimand, to serious acts of brutality warranting dismissal and criminal prosecution. Section 1.75 ("Repeated violations of departmental rules and regulations and/or any other course of conduct indicating that a member has little or no regard for his responsibility as a member of the Police Department") has been used to address misconduct ranging from work rule violations to criminal conduct such as attempted murder, rape, theft, and aggravated assault.

The vagueness of these charges, and the wide range of misconduct they encompass, renders the disciplinary database of little use in assessing disciplinary trends and emerging problems in the Department, and is not a reliable management tool in assessing the disciplinary histories of individual officers. Manual review of individual files is still required to obtain this information. Furthermore, arbitrators have overturned disciplinary actions against officers on the basis that specific Code sections relied upon by the Department when bringing disciplinary actions, particularly Section 1.75, do not accurately refer to the misconduct alleged thereby denying officers' due process rights.

For example, an officer, while off-duty but in uniform, was arrested for driving while intoxicated and subsequently dismissed under section 1.75. The officer grieved the dismissal and the arbitrator reinstated the officer on the grounds that one arrest for driving while intoxicated does not constitute "repeated violations" or a "continuing course of conduct" pursuant to section 1.75. The officer was also charged with violations of sections 1.60 and 2.05 of the Code, but since the penalty guidelines for these sections do not mandate dismissal for the first offense, the arbitrator concluded that the officer's dismissal was improper.

In another case, an off-duty officer assaulted a civilian, fracturing the civilian's nose and left orbital bone, as a result of a traffic dispute. The officer was dismissed pursuant to section 1.75 which the arbitrator held did not apply on the grounds that ". . . the assault of a civilian, while in an off-duty status and while wearing a uniform under these circumstances, [is not] part of a pattern of repeat offenses of rules or regulations." The officer was reinstated and received \$70,000 in back wages.

In another case an officer was dismissed pursuant to section 1.75 for using his police badge to gain access to a rental car facility used by the Department to steal gasoline for personal use. In seeking reinstatement, the arbitrator found that this improper conduct occurred but that the Department made a "technical error" in charging the officer with section 1.75 because the theft was a singular infraction that did not meet the requirements of section 1.75. The arbitrator ordered that the officer be reinstated with back wages.

These findings point to the need for a thorough review and revision of the Department's Disciplinary Code to more accurately and comprehensively reflect the type of conduct prohibited by the Department. Furthermore, assessment of the current recommended penalties and reckoning periods in the Code should also be undertaken since several decades have elapsed since these guidelines were first established. Revising and reforming the Department's Disciplinary Code has labor implications that must be analyzed and addressed. However the IAO still recommends that the Department work towards adopting a new updated Disciplinary Code. Consideration should be given to:

- Creating individual Code sections for excessive use of force, verbal abuse, and rudeness;
- Creating a separate section to address officer's who drive uninsured, without proper registration, inspections, and other violations of the Pennsylvania Motor Vehicle Code.
- Creating individual Code sections for each type of prohibited conduct contained in Section 4.50 ("Failure to properly patrol beat or sector; unauthorized absence from assignment; failure to respond to radio call; idle conversation or loafing");
- Creating a complementary Code section to 1.75, which would prohibit a single violation of Departmental rules or regulations indicating that an officer has little or no regard for his/her responsibility as a member of the Department, or such conduct that in some way impacts or negatively affects the ability of the officer to effectively carry out his/her duties.
- Merging Code Sections 5.06 ("Being found in any alcoholic beverage licensed establishment, in full uniform, while not in performance of police duty") and 5.09 ("Constructive possession of alcoholic beverages on the person, in police vehicle, or on any police property"), and section 1.80 ("the use of a controlled substance by any member is prohibited except when prescribed in the care and treatment of a member by a licensed medical practitioner") under Article II and creating one Article that focuses on substance abuse in general.
- Identifying offenses that are consistently brought under section 4.20 and creating separate Code sections addressing this misconduct. For example, many 4.20 actions involve officer-involved auto accidents. Rather than rely on this overly broad Code section, a separate section should be created just for auto accidents.
- Amending Sections 5.12 ("Failure to be home without legitimate reason, after reporting off sick") and 5.13 ("Failure to obtain medical treatment or certificate while on sick leave when required") of the Disciplinary Code pertaining to sick leave abuse and sick time requirements to reflect established Departmental policy set forth in Police Directive 66;
- Eliminating Code sections such as 5.54 ("Omitting, altering, or abbreviating title when addressing any superior officer"), 5.57 ("Failure to properly salute, when in

uniform, the Mayor, Commissioners or a uniformed superior officer”), and 5.69 (“Possession and/or reading newspapers, books, or periodicals while on duty”) that are virtually never enforced despite widespread noncompliance.

C. Disciplinary Trends

Tables One and Two indicate that certain offenses are more frequently the basis of formal disciplinary actions in certain decades and years. Since explanations for these sometimes significant variations cannot readily be found in the databases or disciplinary files, our efforts to extract relevance and meaning from this data required reliance on the institutional memories and recollections of veteran officers. This process, though far from an exact science, provided valuable insights into the evolving values and culture of the Department, as well as the realities and complexity of the disciplinary process in an organization as large and unique as the Philadelphia Police Department. The Code sections will be addressed in sequential order.

1) Article 1 – Conducting Unbecoming An Officer

Table 1 indicates that formal disciplinary actions pursuant to sections 1.01 (“Accepting bribes or gratuities for permitting illegal acts”), 1.10 (“Failure to report to the Police Commissioner knowledge of corruption within the department, including but not limited to any illegal act committed by a member of the department, and/or offers and acceptance of bribes or gratuities to permit illegal acts”), 1.20 (“Knowingly conversing or associating with known gamblers while on duty”), and related section 5.01 (“Soliciting money or any valuable thing without proper authorization”) were significantly higher in the mid-1980’s, then any of the other years examined in this study.

Prior to the mid-1980’s graft or “for profit”^{*} corrupt activities alluded to in these Code sections were more a systemic, widespread, and tolerated part of the police culture.

^{*}“For profit” corrupt activities that were prevalent during this time period included “taking the note”, which, ironically, involved its own code of ethics. For example a “bad note” included extorting money from illegal gambling organizations, alcohol establishments, and entertainment clubs to allow them to operate illegally. “Bad notes” also included extorting money from citizens in lieu of issuing traffic tickets or making arrests. “Good notes” were regarded as compensation, typically from commercial establishments, for providing extra security at specific times.

As political and societal tolerance for this type of corruption diminished, proactive investigations resulted in a number of highly publicized dismissals and prosecutions of officers and high-ranking police officials. These investigations and dismissals sent the clear message that such conduct was no longer acceptable, and presumably served as an effective deterrent to similar future misconduct. The improvement in quality and increase in the number of proactive IAD investigations, and the immediate dismissals and prosecutions of officers found to be involved into such illegal activities, is indicative of continuing organizational intolerance of such misconduct. Thus, while "for profit" corrupt practices still occur in the Department, * they are not as systemic as in the past.

a. Violations of Sections 1.11 and 1.12

Significant increases in disciplinary actions under sections 1.11 ("Failure to cooperate fully in a departmental administrative investigation") and 1.12 ("Making a false statement in response to an official departmental investigation") starting in 1996, are predominantly the results of IAD investigations and indicative of Departmental efforts to break down the "blue wall of silence" by holding accountable those officers who, for whatever reason, are not candid and cooperative during IAD investigations.

However, closer scrutiny of the disposition of these disciplinary actions charging sections 1.11 and 1.12 (See Table Three) as well as review of numerous files in which officers were accused of violating these sections, reveals institutional resistance and ambiguity to these reform efforts. In a total of eighty-five cases alleging violations of Section 1.11 between 1991 and 1999 in which verdicts were rendered, thirty-three resulted in not guilty verdicts. In the one hundred and forty-two cases alleging violations of Section 1.12 between 1991 and 1999 in which verdicts were rendered, fifty-eight resulted in not guilty verdicts. In the vast majority of these cases, no explanations, or inadequate explanations, were provided for these determinations, despite IAD evidence strongly suggesting that such misconduct occurred. In nineteen cases in which officers

*"For profit" corruption and misconduct uncovered in the Department in recent years tends to be more isolated and individualistic, and involves such conduct as drug sales, theft, and releasing confidential information to known criminals to assist them in their illegal activities. Misconduct of this type is typically addressed under section 1.75 of the Code.

were found guilty of either 1.11 or 1.12, the penalties imposed were significantly lower than the Disciplinary Code guidelines.

The serious ramifications that stem from findings of guilt pursuant to sections 1.11 and 1.12 may account for the ambivalence and reluctance to pursue and/or convict officers of these Code sections. The penalty guidelines for sections 1.11 and 1.12 are harsh, with no reckoning period, and a second offense mandates dismissal. Furthermore, a finding of guilt under either section 1.11 or 1.12 can profoundly affect an officer's reputation and his/her ability to perform the duties of a law enforcement official, particularly in the context of the judicial system where an officer's integrity and veracity are constantly examined and challenged. As a practical matter, officers may need to be removed from patrol duties because their credibility in any arrest in which they are involved is tainted and suspect. The apparent reluctance of PBI Board's to convict officers of these Code sections, regardless of the facts, undermines Departmental efforts to encourage truthfulness and sends inconsistent messages to IAD investigators regarding their role and responsibilities.

3. Examples of Unsupported Not Guilty Verdicts- Sections 1.11 and 1.12

- An officer was involved in an off-duty altercation with a civilian suspect that resulted in an accidental discharge of the officer's service revolver and the loss of the firearm to the suspect. Despite ample evidence of the altercation, discharge, and loss of weapon, the officer concealed and denied these facts to the IAD investigator and court officials. This officer was charged with 1.11 and 1.12, but found not guilty by the PBI without explanation.
- An officer was involved in a narcotics investigation that resulted in a civilian filing a complaint alleging verbal abuse. In the ensuing investigation, IAD interviewed several independent witnesses that supported the complainant's version of the incident and proved that the officer had not been truthful during the IAD investigation. In the 75-18's, the officer's commander recommended a ten day suspension and a transfer to a "less sensitive assignment within the Department because "As a member of the Narcotics Bureau, honesty and integrity are an absolute priority and the fact that the [officer] was not truthful during his interview concerning this incident jeopardizes his ability to be a productive member of the Narcotics Bureau". The officer pled guilty to section 1.45 in return for a four-day suspension and the Board approved a finding of not guilty on sections 1.11 and 1.12 with no documented explanation.
- An IAD investigation concluded that an officer was operating and soliciting for business that was in direct conflict with the officer's position in a specialized unit in the Department. The officer gave several inconsistent statements during the course of an IAD investigation. The officer was found guilty of sections 1.45, 4.20, and 5.78, but not guilty of sections 1.11, 1.12, and 1.40 ("Soliciting other business, persons or firms for personal gain") with no supporting explanation. The officer received a ten-day suspension and transfer.
- An IAD investigation concluded that an officer made false statements during the investigation of an incident in which a prisoner escaped and the officer failed to notify police radio, a supervisor, the pertinent Detective division, or prepare a 75-48 regarding the incident. The officer was charged with sections 1.12, 4.01, and 4.25, found not guilty of 1.12, with no supporting explanation, and guilty of the remaining charges and received a two day suspension.

3. Unsupported Not Guilty Verdicts – Section 1.11 and 1.12 (Continued)

- An officer was found guilty of section 1.12 on two occasions, receiving a fifteen-day suspension for the first offense and a thirty-day suspension for the second offense, despite the fact that the guidelines mandate dismissal for a second offense. This officer's disciplinary performance evaluation indicates that the "officer needs improvement on her relationship with people. Officer counseled several times about attitude and frequently calls off sick."

- An IAD investigation concluded that an officer had physically and verbally abused a female teenager, falsified the circumstances of the arrest in the 75-48, and lied during the IAD investigation. The officer was charged with, and found not guilty of sections 1.11, 1.12, and 1.15 with no explanation. The officer was charged with and found guilty of sections 1.45, 4.20, and 5.15 and the PBI Board recommended a reprimand, which was subsequently increased to a fifteen-day suspension by the Commissioner. This officer had a prior 1.45 disciplinary action from an incident which occurred in 1997 that was still pending at the time of this audit.

- While off-duty, an officer was in a fight with his girlfriend. During the incident, his firearm discharged one time into the ceiling and through the floor of the apartment above. The Firearms Investigation Unit concluded that the discharge could not have occurred in the manner explained by the officer. The officer was charged with sections 1.12 and 4.20 (the officer should also have been charged under section 5.18). The PBI Board found the officer not guilty of section 1.12 with no explanation, and recommended a three-day suspension, which was approved.

- An officer was involved in a vehicle pursuit and collided with a parked car. The officer left the scene and failed to report the accident. During the Accident Investigation Division's ensuing investigation, the officer completely denied involvement in the accident or any knowledge of damage to the police car. Several independent eyewitnesses confirmed that the officer had been driving the car. The PBI Board withdrew the 1.12 charge without explanation.

- An IAD investigation sustained allegations that an officer made false entries in patrol log, was a frequent visitor at a residence where known criminal activity occurred, and was living at an address not registered with the Department. The investigation also concluded that this officer gave false statements during the interview about this officer's associations with known criminals. The officer was subsequently charged with and found not guilty of sections 1.12, 1.25, and 4.20 with no explanation despite compelling evidence in the IAD investigation. The officer was found guilty of section 1.15 and the PBI board recommended a nine-day suspension that was increased by the Commissioner to a thirty-day suspension. The database indicates that the officer received a ten-day suspension.

TABLE 3 - Disposition of 1.11 & 1.12 Actions from 1985 through 1999

Section 1.11	Guilty	Not Guilty	Nolle prosee	Resign	Retire	Dismissed other charges	Expunged	Other	Total
1999	6	6	0	1	0	1	0	0	14
1998	6	11	0	1	2	0	0	0	20
1997	9	14	1	3	0	1	2	0	30
1996	8	1	0	0	0	0	1	1	11
1995	3	0	0	0	0	0	0	0	3
1994	3	0	0	0	0	0	0	0	3
1993	7	0	0	0	1	1	0	0	9
1992	7	2	0	0	0	0	0	0	9
1991	2	0	1	0	0	0	0	0	3
1990	---	---	---	---	---	---	---	---	---
Total	51	34	2	5	3	3	3	1	102
1989	2	6	0	0	1	0	0	0	9
1988	7	2	0	1	0	0	0	0	10
1987	2	1	0	0	0	0	0	0	3
1986	5	0	2	1	0	0	0	0	8
1985	0	0	1	0	0	0	0	0	1
Total	16	9	3	2	1	0	0	0	31
Section 1.12									
1999	14	16	0	2	0	2	0	0	34
1998	15	14	0	0	4	0	0	0	33
1997	13	11	0	1	0	0	0	1	26
1996	6	6	0	0	1	0	0	0	13
1995	6	3	0	0	0	0	0	0	9
1994	4	3	0	0	0	0	0	0	7
1993	11	3	0	0	0	1	0	0	15
1992	7	0	0	0	0	0	0	0	7
1991	8	2	0	1	0	0	0	0	11
1990	---	---	---	---	---	---	---	---	---
Total	84	58	0	4	5	3	0	1	155
1989	2	2	0	1	0	0	0	1	6
1988	2	4	0	0	1	0	0	0	7
1987	5	1	1	0	0	0	0	0	7
1986	2	1	0	1	0	0	0	0	4
1985	2	1	0	0	0	0	0	0	3
Total	13	9	1	2	1	0	0	1	27

2) Article II - Intoxication

Departmental responses to violations of Article II, and related sections 1.60 (“Odor of alcohol on breath while on duty”), 5.06 (“Being found in any alcoholic beverage licensed establishment, in full uniform, while not in performance of police duty”), and 5.09 (“Constructive possession of alcoholic beverages on the person, in police vehicle, or any police property”), provides a vivid example of the Department’s informal responses towards certain types of proscribed behavior. Alcohol use and abuse was a more open and prevalent part of the police culture in the 1970’s and early 1980’s. Interviews with police personnel yielded numerous anecdotes of officers of all ranks who came to work under the influence of alcohol, drank during working hours, were involved in auto accidents while intoxicated, or were arrested for driving while intoxicated on and off duty. Despite what was a recognized problem among a certain percentage of the force, the statistics in Table One reflect that officers were rarely subjected to formal disciplinary actions for improper use of alcohol. As a general rule these problems were addressed informally, by sending the officer home sick, informal counseling, or assigning an officer to a desk job and out of harms way. Officers with acute alcohol problems may have been forced into treatment programs or retirement. Offenses involving abuse of alcohol typically resulted in formal discipline only when the officer’s conduct was so egregious as to preclude informal resolution.

A growing awareness of and concern for the risks, dangers, and health implications of alcohol abuse, as well as increased supervisory training on issues related to drug and alcohol abuse and stress management, have deterred and decreased the level of obvious alcohol abuse in the Department. While it may no longer be tolerated so brazenly, alcohol abuse is still a problem for some on the force, yet the consistently low number of disciplinary actions under Article II in the 1990’s reveals that the Department still addresses such misconduct informally. Under current practices, officers are typically referred to the Employee Assistance Program in the Department, which was created to assist officers with substance abuse and other problems.

Whether or not the Department’s informal handling of personnel with alcohol abuse problems is an appropriate response is a discussion beyond the scope of this report, with many complicating factors and issues that need to be addressed. Suffice it to say

that alcohol abuse can directly and negatively impact on an officer's ability to perform his/her duties and can put the public, and fellow officers, at risk of harm. Additionally, sporadic enforcement of Code sections related to alcohol abuse and informal undocumented efforts to address this type of behavior only serves to reinforce the perception that certain people, because of rank or connections, are immune from accountability. For this reason, a consistent and reasonable policy with regards to violations of Article II and related sections needs to be devised.

3. Article IV – Neglect of Duty

In 1980, one hundred and forty-three disciplinary actions alleging violations of Section 4.15 (“Failure to properly supervise subordinates; or to prefer disciplinary charges; or to take other appropriate disciplinary action”) were brought against supervisory personnel. That represents, by far, the most activity under this Code section in nineteen years. This surge in 4.15 actions was a result of a concurrent political mandate to reverse what was perceived as excessive and unnecessary police hiring practices, which resulted in widespread layoffs of police officers. This fostered resentment throughout the Department. Officers responded by calling in sick (the “Blue Flu”), and failing to take required police actions, such as issuing traffic citations. Supervisors who identified with, and in some cases openly supported these job actions, were held accountable for decreased police activity and, per orders of former Police Commissioner Morton Solomon, were disciplined under Section 4.15 for failure to supervise. This job action lasted several months, and over a hundred supervisors were disciplined, typically receiving a reprimand.

A drastic increase in section 4.20 disciplinary actions, between 1995 and 1998, was a result of a management policy determination to address the chronic problem of officer-involved auto accidents through the formal disciplinary system.

The dramatic increase in disciplinary actions brought under section 4.35 (failure to appear in court) and 5.33 (tardiness) beginning in 1997 was a Departmental response to the 39th Police District scandal which implicated consistent failures to appear in court as a key corruption indicator. This prompted former Police Commissioner Richard Neal

to establish systems and practices for tracking and documenting officers' court appearances, and for ordering disciplinary actions against officers who were late for, or missed, court without valid reasons. These actions were typically resolved by Commissioner's Direct Action with penalties typically ranging from a reprimand to a one-day suspension.

While violations of section 4.50 ("Failure to properly patrol beat or sector; unauthorized absence from assignment; failure to respond to radio call; idle conversation or loafing") still occur with regularity in the Department, there has been a steady decline in the number of officers disciplined for these types of infractions. Numerous theories for this decrease have been offered, the most consistent being that a greater number of younger and less experienced supervisors, and inadequate supervisor/officer ratios, hinder consistent enforcement of this misconduct. We were unable to objectively verify these and other theories related to enforcement of section 4.50.

The increase in actions under Section 4.65 ("Loss or damage to Police Department property resulting from negligent action or from failure to properly care for same") in the 1990's have been attributed to improvements in the Department's record keeping practices and policies pertaining to police equipment, and stricter enforcement of a policy holding officers accountable for lost police equipment.

The significant decrease in disciplinary actions alleging violations of section 5.12 ("Failure to be home without legitimate reason, after reporting off sick") is the result of Directive 66, which became effective 1994, and dictated Departmental response to abuse of sick leave policies. Violations of Directive 66 have resulted in disciplinary actions under 4.20, as opposed to Section 5.12.

V. POLICE BOARD OF INQUIRY (PBI)

A. PBI Facilities and Resources

Since a large percentage of the Department's disciplinary actions are resolved at the PBI, an integral component of this study included analyzing the PBI practices, policies, resources, and personnel to assess its ability to carry out its functions.

The PBI is located on the first floor of Police Headquarters in an area of the building with such poor air circulation a noisy and distracting fan is sometimes necessary to alleviate the stifling heat, even in the winter months. The floors and furniture are perpetually coated with a fine layer of dust. Some of the PBI filing cabinets are so decrepit, hanger wires are used to open the overstuffed drawers. The Department Advocate's desk, along with filing cabinets, discarded computer equipment, and stacked boxes containing an overflow of disciplinary files are located in the hearing room. This arrangement affords the Advocate no private location to speak to and prepare witnesses. During Board deliberations, the Advocate is forced to stand and wait, along with defense attorneys and police witnesses, in the anteroom of the hearing room where most of the PBI's Administrative staff (two civilians and a corporal) are situated. Working conditions in this anteroom are overcrowded and the confidentiality of sensitive records and information may be compromised since they are open and obvious to police personnel, defense attorneys, and other witnesses.

Limited seating in a small hallway outside the hearing room is typically inadequate to accommodate the civilian and police witnesses who often wait hours for their hearings to begin. Civilians who filed complaints against officers, or supervisors who filed disciplinary actions against subordinates stand or sit in close proximity, which can create a tense, stressful and potentially volatile atmosphere.

Security at the PBI is inadequate.* Neither sworn nor civilian witnesses are subjected to security checks and officers are not required to relinquish their firearms or other potential weapons before entering the PBI. Disciplinary hearings at the PBI can be

*While at a PBI hearing one day, the IAO observed a particularly agitated employee reach her hand into her pocketbook in the middle of the hearing and keep it there for an extended period of time. The employee's unusual stance, in conjunction with her distraught demeanor, prompted the IAO to analyze security at the PBI.

extraordinarily stressful events for the accused officer(s) whose reputations, careers, and livelihoods may be at stake. Some of these officers have known emotional, psychological, or substance abuse problems, and some have already demonstrated a proclivity to break rules and regulations. Outbursts by officers and complainant's have occurred during PBI hearings, and individuals who participate in the PBI process have expressed concern for their safety.

Pursuant to Police Department Directive 13, officers are not permitted to carry firearms into courtrooms in which the officer is present for personal reasons such as divorce, custody, and support matters. For obvious safety considerations a similar policy is clearly warranted for the PBI and should be established and enforced as quickly as possible.

While PBI is mandated to maintain a stenographic record of every disciplinary proceeding, PBI stenographic equipment is antiquated, inadequate, and constantly in need of repair. Despite the fact that a salaried court reporter is present for and records every disciplinary hearing, only 1% to 2% of the hearings are actually transcribed, since a single case can take days, sometimes weeks, to transcribe. The Department would benefit from state of the art transcription equipment that would allow for regular and more efficient transcription of PBI hearings. These recorded notes would be extremely useful to the Department and its attorneys in the event future litigation arises from the disciplinary actions, IAD investigations, and other matters.

It is well recognized that the Police Department has outgrown its main headquarters at 8th and Race Streets and that substandard, overcrowded facilities exist throughout the Department. Despite these inadequate working conditions and resources, it is readily apparent that PBI personnel are professional and committed individuals who carry out their duties to the best of their abilities. However, providing the men and woman of the PBI with a professional, properly resourced work environment, will send an unmistakably clear message about the critical importance of the PBI throughout the Department, and may encourage more personnel to serve at the PBI as either the Advocate or a Board member, which is becoming an increasingly difficult proposition. A more professional environment would also give citizens a better sense that their

complaints are being taken seriously thereby enhancing citizen and police confidence in the integrity of the Department.

B. PBI Case Backlog

It is axiomatic that justice delayed is justice denied, and that the effectiveness of discipline hinges upon the swift and appropriate response to misconduct. However, it is not uncommon for a year, in some cases several years, to elapse from the date of the infraction until the disciplinary matter is ultimately resolved.

Delays in completing Departmental investigations, uncooperative witnesses, and scheduling conflicts with officers and attorneys, are just some of the factors that contribute to these delays. Command Level discipline has been instrumental in speeding up resolution of minor disciplinary actions, however extensive backlogs still exist for the more serious cases.

While some delays are inevitable, others are not. For example, PBI scheduling often conflicts with court appearances by police personnel and attorneys. Coordination between Court Attendance and the PBI may partially alleviate this problem. Questionable defense requests for continuances argue for a consistent and strict policy regarding the granting of defense continuances. However, the most troubling delays occur in those cases in which IAD investigations sustain allegations of misconduct yet no disciplinary actions are initiated, as well as cases in which disciplinary actions that were initiated and approved by the PBI remain inexplicably stalled at various commanders levels as they were reviewed through the chain of command. PBI records indicate that disciplinary actions are typically returned to the PBI within two weeks to five months after being initially approved by the PBI. However, in some cases, the files were never returned to the PBI for disposition, with no explanation.

These delays have resulted in the loss of civilian and sworn witnesses critical to proving allegations of misconduct, and create stress, resentment and frustration for both the accused officer and the accuser as the matter remains unresolved for extended time periods. Furthermore, unresolved disciplinary actions fuel the perception that certain individuals are being protected from disciplinary action which has a demoralizing effect

on the police force in general as well as IAD investigators who see no appropriate follow up or response to their time consuming investigations.

Consideration should be given to establishing a review group to carefully study and evaluate the various reasons for delays that occur at each step in the process, and to establish and enforce policies that will minimize delays to the greatest extent possible. Suspense dates for the preparation of the 75-18's should be established and strictly enforced and commanders should be held accountable for unreasonable, unexplained delays in forwarding 75-18's through the proper channels in a timely fashion. The Department should immediately assign individual(s) or a review group to monitor all Departmental investigations in which allegations of misconduct are sustained to ensure that formal disciplinary actions, if warranted, are initiated and resolved in a timely manner.

Consideration should also be given to extending PBI hours, selecting and training one or two additional Department Advocates to serve on an adjunct basis, and establishing satellite locations for the PBI. Offering various locations and extended hours, as necessary, offers greater convenience in terms of location and time to accommodate irregular work schedules of both police and civilian witnesses.*

*There is no parking available at Police Headquarters for civilian witnesses, who must pay for public parking lots, which can be cost prohibitive and inconvenient to some witnesses and complainants.

4. Examples of Failure to Initiate Disciplinary Actions

- In July 2000, an IAD investigation sustained an allegation that an officer was associating with known criminals in violation of Section 1.25 of the Code ("Knowingly associates, fraternizes, or conducts business transactions at any time, or in any manner whatsoever, with known criminals or persons engaged in unlawful activity"). In December 2000, another IAD investigation sustained allegations that this same officer was associating with known criminals in violation of Sections 1.25 and 1.75 of the Code. As of March 2001, no disciplinary actions, nor other interventions, were initiated as a result of this investigation. This officer remains active on the force.

- In June 2000, an IAD investigation concluded that an officer abused his authority when he arrested an individual based purely on personal animosity and not legitimate or legal grounds. IAD also sustained allegations of violations of Section 1.12 of the Code (Making a false statement in response to an official Departmental investigation) against this and another officer who was present during the arrest. As of March 2001, no disciplinary actions as a result of this investigation were initiated. Both officers remain active on the force.

- In June 2000, an IAD investigation sustained allegations of credit card fraud against an officer. The investigation also proved that the officer made false statements to the IAD investigator during the investigation in violation of Section 1.12 of the Code. As of March 2001, no disciplinary actions were initiated as a result of this investigation. This officer remains active on the force.

- In April 2000 an IAD investigation concluded that a district investigation into a use of force incident was completely inadequate. In that case, district personnel responsible for the force investigation were unable to produce the medical detainee checklist or hospital case incident report, notification to IAD regarding the force incident was never made, interviews with necessary witnesses were never conducted, and various mistakes were identified on other relevant police reports. Despite this significant breakdown in Departmental protocol and policy, neither the supervisor, officer, nor Detective who were responsible for this investigation were formally disciplined.

- In October 2000, IAD sustained allegations that an officer was frequenting an illegal prostitution establishment and violating other Departmental Directives. As of March 2001, no disciplinary action was initiated as a result of this investigation. This officer remains active on the force.

- In April 2000, an IAD investigation concluded that an officer had violated Sections 1.11 and 1.12 of the Code for lying about the circumstances of an arrest "to increase the chances of a successful prosecution in the criminal matter", and then subsequently lying to the IAD investigator regarding his prior false statements. As of March 2001, no disciplinary actions were initiated as result of this investigation. This officer remains active on the force.

- In May 2000, an IAD investigation sustained allegations that an officer violated Section 4.50 of the Code ("Failure to properly patrol beat or sector, unauthorized absence from assignment"). This officer has an extensive history of civilian complaints against police, yet as of March 2001 no disciplinary actions were initiated as a result of this investigation. This officer remains active on the force.

- In September 1999, an off duty officer was at a nightclub and had consumed several alcoholic beverages when he became involved in an altercation which resulted in his pointing his loaded service revolver at other patrons. The IAD investigation into this incident concluded that the officer did not violate Department policy pertaining to use of his firearm. The investigation did conclude however that the officer showed poor judgment by bringing a loaded gun into a situation where the officer intended to consume alcohol. Furthermore, despite overwhelming evidence to the contrary, this officer repeatedly denied pulling out his gun during this altercation and the investigation concluded that this officer violated section 1.12 of the Code for making false statements during an official investigation. As of March 2001, no disciplinary action was initiated as a result of this investigation. This officer remains active on the force.

C. Representation

The Department's Advocate has historically been a Captain with no legal experience or training. Experienced litigators represent police officers. This disparity in representation apparently stems from the fact that the PBI was originally conceived, and is still regarded, as an administrative forum where the goal is to review and analyze disciplinary matters from a police administrators/management perspective, as opposed to a legal/adversarial perspective. While this orientation may have been appropriate at one time, its relevance and effectiveness is now questionable. Over time, the FOP has increased both its resources with an expanding legal services fund, and its strength, as the Department has steadily relinquished various management rights and prerogatives through the labor contract bargaining process. For example, under the terms of the original contract, the FOP could only grieve disciplinary actions in which the penalty exceeded a ten-day suspension. Under current contract terms the FOP can grieve any disciplinary action in which the penalty exceeds a reprimand.

These forces have introduced an adversarial component into the process where officers are represented by experienced, aggressive litigators trained in the art of persuasion and evidentiary and procedural tactics and defenses. The Department Advocate's are typically transferred into the PBI with no formal training in the skills and techniques of advocacy. This is problematic since many PBI determinations are appealed and eventually litigated in the labor arbitration forum. For this reason it is important to preserve evidence and create a comprehensive, legally sound record at the disciplinary hearing.

The Department's Advocate is typically a longstanding member of Department with varied alliances and adversaries, who is suddenly thrust into the role as prosecutor. This inevitably results in the Advocate prosecuting officers with whom the Advocate is known to have connections, creating real or perceived conflicts of interest and tainting what may in fact be well-reasoned and legitimate dispositions. The Advocate's position is inherently unpopular, stressful, and isolating and these tensions are only exacerbated by the perception that the Advocate's personal biases influence the disposition of cases.

For these reasons, consideration should be given to changing the status of the Department Advocate to a non-sworn position and assigning an experienced litigator to

the position to level the playing field. In the alternative, Department personnel assigned to the position of Advocate should receive extensive training in trial advocacy techniques, and evidentiary and procedural rules of evidence. This could be coordinated with the City's Law Department or some of the area's law schools and law firms. Consideration should also be given to selecting and training one or two additional Advocates to serve on an adjunct basis, should an obvious conflict of interest arise.

The changing dynamics of the PBI into a legal, adversarial forum also underscores the need to review and redefine the role and authority of the Advocate that is currently lacking in clear standards or direction. For example, is the Advocate a zealous prosecutor whose only goal is to attain a guilty verdict? How much discretion does the Advocate have in making judgment calls about the validity of disciplinary actions? Do negotiated guilty pleas have a legitimate role in the PBI process and to what extent should the Advocate negotiate pleas as a way to hasten case dispositions? These and other issues and questions argue for clearer guidelines regarding the role and authority of the Advocate.

D. PBI Boards

A haphazard and unmonitored selection process for PBI Board members diminishes the value and effectiveness of this important role in the Department, and contributes to chronic inconsistency in case dispositions. The Department Advocate is responsible for recruiting personnel to serve on PBI Boards, and tries to choose responsible individuals who will hopefully render rational and reasonable decisions, however, there are no consistent standards for who can serve on the Board. Potential Board members are not objectively evaluated, nor do they receive training or instruction in the expectations and policies of the Department regarding the role and responsibilities of a Board member.

It is also becoming increasingly difficult to recruit personnel to serve as Board members. Commanders interviewed as part of this study, particularly those in the busier patrol units and districts, cited time constraints as one factor contributing to their reluctance to volunteer at the PBI. Other commanders viewed the role of PBI Board member as a thankless, unpleasant task that was bound to make one enemies, whether it

be the accused, the Union, or Department management. Personnel identified as reasonable, responsible, intelligent Board members become over utilized and eventually weary of requests to serve at the PBI.

Consideration should therefore be given to establishing standards for personnel qualified to serve on Boards, identifying and properly training a sufficient number of personnel to serve on PBI Boards, making service mandatory for these individuals, monitoring their performance, offering incentives and positive reinforcement for those with exemplary service, ensuring that the Department's standards and expectations as it relates to the role of the Board and discipline in general are consistently and effectively communicated, and supporting well-reasoned, rational dispositions by PBI Boards.

VI. INDIVIDUAL DISCIPLINARY ACTIONS

The PBI maintains the records of all formal disciplinary actions undertaken in the Department, whether they were resolved by a PBI Board, Command Level Discipline or Commissioner's Direct Action. Over the past five years, the PBI has processed the following number of formal disciplinary actions:

1999 - 704

1998 - 1388

1997 - 541

1996 - 533

1995 - 374

As part of this study, we reviewed over four hundred of these disciplinary files, the majority of which were resolved within the past three years. Our purpose in this review was to determine whether, and to what extent, the disciplinary actions were resolved in a way that seemed reasonable, effective, and fair, in light of the allegations of misconduct.

A. Detail and Consistency

In many of the files reviewed, Departmental response to the misconduct appeared reasonable. However, in many other cases, we discovered a recurrent lack of detail and documentation that made it impossible to determine whether or not the dispositions were appropriate, or if penalties were imposed, whether or not they were reasonable. In some cases there did not appear to be an assessment of the ramifications of a particular offense, or appropriate support or intervention offered to prevent recurrence. Chronically inconsistent outcomes and penalties, and inappropriate application of the penalty guidelines mandated by the Disciplinary Code, were additional problems identified in many of the files.

In other cases, not guilty verdicts were rendered, or charges were withdrawn, with no or inadequate explanations, despite evidence indicating that such offenses did in fact occur. In 1999 a policy was instituted requiring PBI Boards to submit memorandums in support of not guilty verdicts. However, these memorandums are only required in for cases in which an officer is found not guilty of all the alleged charges and are not required for cases where there is a finding of guilt on at least one of the charges, no

matter how minor. Thus, not guilty verdicts on more serious charges of misconduct remain unexplained or unjustified despite clear evidence, or extensive IAD investigations indicating that the misconduct alleged did in fact occur.

Unsupported not guilty verdicts were particularly prevalent in disciplinary actions alleging violations of section 1.45 which pertains to verbal and physical abuse. These actions typically arise in the context of a civilian complaint against police and the matter is investigated by IAD. Our study revealed that from 1990 through 1999 there were a total of two hundred and eighty-seven 1.45 actions brought against officers in the Police Department and in one hundred and sixteen of these cases, officers were found not guilty of the charges despite IAD investigations sustaining the allegations. As part of this study the IAO reviewed nearly thirty files alleging violations of section 1.45. Only three of these files contained a memorandum explaining the basis for the Board's not guilty verdict.

A Departmental policy regarding "not guilty" memorandums should be formalized in writing specifying when and to whom they should be submitted and the precise nature of information and details that should be included in the memorandum. Additionally, not guilty memorandums should also be submitted in all cases where there is a not guilty verdict on the most serious charges alleged in the 75-18's.

In attempting to seek clarification and explanations for approximately three dozen cases that were particularly perplexing and troubling, we looked beyond the disciplinary files. This entailed reviewing the investigations that were the basis of the disciplinary actions, officer background investigation files, personnel records, IAD databases, and in a few cases, interviewing personnel familiar with the incident. This proved to be a complicated and time consuming endeavor which could not be undertaken to resolve all the ambiguous cases identified during this audit.

In some of these cases, reasonable explanations for what appeared to be inappropriate dispositions were uncovered. In other cases, no reasonable explanations for what appeared to be illogical dispositions were forthcoming. In these latter cases, the Department's particular course of action may have been based on reasonable and logical considerations; however, the failure to explain or document these factors and considerations precluded analysis or review.

This pervasive lack of detail and documentation contributes to a disciplinary system that is in many respects inscrutable, and one that does not operate by measurable, auditable, consistent standards. These characteristics contribute to the widespread perception, both within and outside the Department, that the disciplinary system is arbitrary and unfair, and weakens the City's defense in some disciplinary actions that are subsequently challenged through the labor arbitration system.

In light of the above, it is essential that the Department establish methods for documenting the reasons and justifications for a particular disposition or recommended course of action in disciplinary matters. It is not our intention to impose additional paperwork on already busy personnel, however, carefully considered, a system could be devised which captures only relevant and necessary information in a manner that is not unduly burdensome or onerous.

5. Problematic Disciplinary Actions

- An officer who was aware that a person had been shot, drove away from the crime scene without taking any action to ascertain the condition of the shooting victim, render first aid, notify police radio, protect the crime scene, search for evidence, or question witnesses. The victim died as a result of the shooting and the case was handled by the Homicide Unit. The disciplinary file intimated that the victim might have still been alive when the officer left the scene. Witnesses to the incident identified the officer near the crime scene and told investigators: "If you want to know what happened why don't you ask the cop that drove by". Despite overwhelming evidence to the contrary, this officer denied knowledge of the shooting, or that a person had been injured. The officer was only charged with sections 4.01 and 4.20 and received a five-day suspension.

The file left many questions unanswered. For example, why wasn't the officer charged with Sections 1.11 and 1.12? Why did the officer leave the scene of the crime and then lie about it? Was the officer a witness to the shooting? Did the officer's inaction compromise the criminal investigation, and if so, how? Does the officer require additional training or counseling? Is this officer fit to remain on the job? It is not possible to determine whether this was an appropriate disposition in light of these unresolved issues.

- An officer was found guilty of Section 1.45 and received a two-day suspension for using "rude and insulting" language during an investigation of a male suspect. Since there is no information in the file specifying the circumstances surrounding the infraction, it is difficult to assess the reasonableness of the penalty. (The file indicated that this officer was the subject of a prior disciplinary action for violation of section 4.20, however this case was not listed in the database and we were unable to ascertain the nature of that prior offense.)

- An officer was found guilty of section 4.50 and forfeited two vacation days for leaving his beat and "harassing" a woman. The disciplinary file contained no details regarding the nature of the harassment, how long the officer was absent from his beat, nor any other circumstances surrounding this incident. Based on these limited facts, we cannot determine whether or not this penalty was appropriate.

- An elderly citizen was severely beaten and robbed inside her home and ultimately died as a result of the injuries inflicted during the assault. The Detective responsible for handling the investigation, and the Sergeant and Lieutenant responsible for supervising the Detective, were all disciplined for failing to take any appropriate action including investigating the crime scene, searching for, collecting, preserving or identifying evidence, or interviewing potential witnesses or the victim before she died. The Detective was found guilty of 4.25, the Sergeant pled guilty to section 4.20 and the Lieutenant pled guilty to Section 4.15. They each received a reprimand.

There was nothing in the file that explained how and why this system breakdown occurred, whether preventive measures to prevent recurrence were undertaken, or whether the investigation or any subsequent prosecution was compromised by their failure to take appropriate action.

- An officer left his assigned beat to conduct security checks at several private entities, such as motels, and failed to document these actions in his patrol log. The officer received a one-day suspension pursuant to Command Level discipline. There was no assessment as to why, and for how long, the officer was doing security checks, or whether he was being compensated in some manner for these services, which is indicative of more serious corruption.

- An off-duty officer was running up the steps of his home holding a firearm when he tripped and accidentally discharged his weapon shooting himself in his ankle. The officer pled guilty to violations of Section 5.18 and received a reprimand. There is no information in the file regarding why the officer was running with a loaded revolver, or other circumstances surrounding the incident.

- An officer was found guilty of section 1.45 and forfeited two vacation days for striking a male suspect with a baton two times while the suspect was on the ground. The file contains no information about whether the suspect was injured or the extent of the injuries, nor was there any analysis of this officer's use of force history.

5. Problematic Disciplinary Actions (continued)

- A Lieutenant certified Daily Attendance Records ("DAR"), indicating that a subordinate Sergeant had reported for work for seven days, when in fact the Sergeant was on vacation. The Lieutenant was charged with violating Section 4.20 and received a reprimand.

In a similar case, a Sergeant certified DAR's that another Sergeant was working for eleven days while the Sergeant was on vacation. This Sergeant was charged with violating Section 4.20, and he pled guilty for a two day suspension.

In yet another case, a Corporal certified DAR's indicating that a Sergeant was on duty for three days that the Sergeant was on vacation. The Corporal was charged with violating 4.20 and received a reprimand

None of these supervisors were charged with Section 4.15, nor was there any indication of an inquiry into whether or not these improper certifications had been intentional which would have justified dismissals and/or indictments.

- An officer left his foot patrol beat by half a mile responding to a radio call of a prowler in the rear of a residential property. After investigating the premises and notifying police radio that the complaint was unfounded, the officer went inside the residence in question and made sexual advances on the woman who lived there. The victim told the officer to leave and immediately filed a complaint against the officer. The officer was found guilty of two counts of section 4.50 and 1.45 and not guilty of section 4.20 and received a five-day suspension. These facts suggest that this officer is in need of close supervision and counseling, yet there is nothing indicating these interventions were considered. There was also no analysis of the origination of the call to police radio, and the whereabouts of the officer prior to the call, which was clearly warranted in light of the officer's actions. This officer was appointed to the force in 1995 and had four disciplinary actions prior to this incident.

- While on duty, a probationary officer and her male partner left their area of assignment and went to the residence of the male partner's former girlfriend. At that location, a confrontation ensued between the male partner and his former girlfriend's husband, which culminated in the officer pointing his service revolver at the male. Neither officer documented this encounter on their patrol logs, prepared any reports, or notified their supervisors about the incident. The IAD investigation also concluded that the probationary officer failed to cooperate in the IAD investigation. The probationary officer was charged with violations of sections 4.20, 1.10, and 1.75. She was found guilty of violating section 4.20 and received a reprimand and not guilty of the remaining charges, with no supporting explanation. As a probationary officer, dismissal was warranted. The other officer was inexplicably never charged for his conduct during this incident.

- An off duty officer was found guilty of 5.18 and received a one day suspension for discharging his service revolver in his residence, failing to notify police radio of the discharge, and altering the scene of shooting prior to it being processed. There is nothing additional in the file about the circumstances of the shooting and we therefore cannot determine whether or not this penalty was appropriate.

- An IAD investigation sustained allegations of physical abuse against an officer from the Highway Patrol Unit for using excessive force against two teenage males during a narcotics investigation. The officer was found guilty of sections 4.20 and 1.45 and received a reprimand. The file was lacking in any detail about whether the suspects sustained injuries and if so, the nature of the injuries. There was no indication in the file as to whether the suspects were arrested, or the circumstances leading up to the encounter and assault. Furthermore, the disciplinary evaluation states that the officer "requires moderate supervision", yet there was no apparent assessment as to whether this officer is suitable for Highway Patrol.

- An IAD investigation sustained allegations of inappropriate use of blackjack and failure to report use of blackjack against an officer who was subsequently charged with violations of sections 1.45 and 4.20. The Department withdrew the 1.45 charge with no explanation despite the IAD investigation, and the officer found not guilty of 4.20 with no explanation or memo.

- A civilian filed a complaint against an officer alleging that the officer had improperly issued him several traffic tickets. In retaliation for filing the complaint, the officer fraudulently issued the same civilian four additional tickets for traffic violations which never occurred and which the officer never observed. The officer pled guilty and received a reprimand.

5. Problematic Disciplinary Actions (Continued)

- An IAD investigation concluded that a female officer was knowingly and willingly in a personal relationship with a man who had an extensive criminal record and drove a stolen car. The officer was charged with violating Sections 1.25, 4.20, and 5.48, found guilty of 5.48, not guilty of Sections 1.25 and 4.20 with no explanation, and received a two-day suspension. (This disciplinary action example was not in the disciplinary database. Additionally, this officer's PBI file indicated no prior disciplinary record, despite the fact that database reveals two prior disciplinary actions under sections 4.01 and 5.15. Thus, it is not clear whether the Board had this information when assessing the penalty.)
- An officer was found guilty of Section 4.10 ("Absence without leave for less than five consecutive working days") three times, the latter two offenses occurring within the reckoning period of the first offense. The officer received a ten day suspension for the first offense, and fifteen day suspensions for the subsequent two offenses despite the fact that the Disciplinary Code mandates dismissal for a third conviction of this offense. This officer has several prior disciplinary actions, and was poorly rated in work habits and attendance.
- An IAD investigation concluded that a Sergeant was in violation of several Departmental Directives for failing to conduct a proper investigation or notifying internal affairs of a use of force incident in which two subordinate officers assaulted a prisoner with a blackjack. The Sergeant was charged with Sections 4.25 and 4.20, (not 4.15) and a five day penalty was recommended which was never imposed. This same Sergeant was also found guilty of twice violating Section 4.20, the second offense occurring within the reckoning period of the first offense. Progressive discipline was not applied, and the Sergeant received reprimand for both offenses.
- A Sergeant was charged with and found guilty of violating section 1.12 for altering a traffic ticket issued by a subordinate officer without the officer's knowledge. An IAD investigation indicated that the Sergeant was involved in this type of conduct on an ongoing basis and that the Sergeant had lied about his actions during the IAD investigation. The PBI Board recommended a ten day suspension which was approved by the Commissioner, however the database indicates that the Sergeant was found not guilty and received no penalty.
- A Lieutenant failed to conduct any investigation into a vandalism incident in which a Philadelphia police officer's son was a suspect. The Lieutenant was found guilty of section 4.20 and received a one day suspension.

B. Failed to appear/Late for Court

Lack of detail and analysis of the ramifications of the offense were particularly prevalent in cases where officers were charged under sections 4.20, 5.27, and 5.33 for failing to appear, or arriving late for court cases in which they were subpoenaed. In nearly every one of these cases reviewed, the files contained no information as to whether, or to what extent, the officer's misconduct compromised the prosecution of the case. For example, did the officer's failure to appear, or tardiness, result in the dismissal of a felony or the continuance of a misdemeanor? To what extent were victims and civilian witnesses inconvenienced or worn down by the delays? Repeated failures to appear in court has been identified as a corruption indicator, and yet there did not appear to be greater scrutiny of those cases where officers exhibited a pattern or practice of failing to show up in court cases in which they were involved in the arrest.

No established policy mandating a required inquiry and response to late for/missed court cases currently exists in the Department. The extent of follow-up on these matters court cases is dependent on the initiative of each individual commander, with some responding more proactively and thoroughly, and others conducting no follow-up at all.

Inconsistent application of penalties and a failure to impose progressive discipline against officers who repeatedly violated sections 5.27, 5.33, and 4.20 were also common.

C. Automobile Accidents

Departmental response to automobile accidents in the context of the disciplinary system is also highly inconsistent. We reviewed cases in which officer's who were in preventable auto accidents were not subject to formal disciplinary action, where progressive discipline pursuant to the Disciplinary Code was avoided by either using different Code sections to address two or more auto accidents within the reckoning period of the first accident, or by combining several separate auto accidents into one 75-18, or where progressive discipline was simply not imposed. There were numerous cases in

which officers involved in multiple accidents repeatedly received slaps on the wrist, while other officers with apparently blemish free careers received harsher penalties for one auto accident. Justifications for these divergent outcomes were not evident in the disciplinary files.

Many of these disciplinary files also did not contain information about the circumstances surrounding the accident, whether injuries or property damage were sustained, and if so, the extent of the injuries and damage. This made it difficult to assess whether the dispositions were reasonable. No explanations were provided in cases where the PBI Board found the officer not guilty of the accident despite investigations by the Accident Investigation Division, and reviews by the Safety Review Board* which concluded that these accidents were preventable. These incongruent and inconsistent outcomes, without explanation, analysis, or follow-up, emphasizes the need for a coherent, uniform discipline policy as it relates to auto accidents.

*The Department has a Safety Review Board, currently comprised of two Lieutenants and one Inspector, that generally meets on a weekly basis to review officer-involved auto accidents investigated by the Accident Investigation Division and to recommend a course of action which may include additional driver training, placing the officer on non-driving status for a certain time period, increasing supervision, initiating formal disciplinary actions, or a combination of the above. The recommendations of the Safety Review Board are then sent to the officer's commander who makes a determination on whether to proceed with formal disciplinary action. The Safety Review Board is not authorized impose disciplinary penalties and formal disciplinary actions may still be undertaken despite the Safety Review Board's decision not to recommend formal discipline. Conversely, commanders may choose not to initiate formal disciplinary action despite the Safety Review Board's recommendation that such action is warranted.

6. Failure to Appear/Late for Court

*None of these files contained information regarding the status of the court cases in question as a result of the officer's failure to appear.

- An officer was found guilty of failing to appear or being late for court nine times in a four-year period. (Three times in 1996, one time in 1997, two times in 1998, and three times in 1999). The harshest penalty imposed was a four-day suspension in 1996. (Since the database noted these violations as either as "tardiness", "CT"(court), "TD"(tardiness), "RON" (fail to report on or off as prescribed") and "RL" (no corresponding definition in the legend), it was necessary to review each individual case file to determine precisely the misconduct alleged.)
- A Sergeant was found guilty of failing to appear and arriving late for court four separate times in an eighteen month period. The Sergeant received a reprimand for each offense, despite the fact that these offenses occurred within the reckoning period.
- An officer failed to appear in court and received a one-day suspension despite the fact that this same officer had failed to appear in court on three prior occasions. In one of these cases, the officer failed to appear two times.
- An officer was disciplined under section 4.20 on two occasions in the same year for being late for court. Progressive discipline was not imposed since the officer received a reprimand for each offense.
- An officer failed to appear for court two separate times within the reckoning period. The officer received a reprimand for each offense. This officer has an extensive disciplinary record that includes a prior dismissal and reinstatement.
- An officer was found guilty of section 4.35 in 1997 and received a one-day suspension. In three subsequent disciplinary actions in 1998 this officer was charged with section 4.20 two times and 4.35 for/missing court three times in 1998. Two of the actions resulted in reprimands, and the third in a two-day suspension. These actions do not include a 1997 4.20 action in which the officer received a five-day suspension for an improper disorderly conduct arrest.

7. Automobile Accidents

- A Sergeant who was in preventable auto accident where two police cars sustained major damage received a three-day suspension.
- An officer who was in preventable auto accident resulting in severe damage to a police vehicle, received a reprimand.
- An officer was in three auto accidents in one month. Two of the accidents were deemed preventable. The officer pled guilty to two counts of section 4.20 and received a two-day suspension that apparently was never imposed.
- An officer who was responding to a radio call with lights and sirens activated rear-ended another car. No injuries were sustained. This officer's record indicated no prior accidents or disciplinary actions. The officer received a one-day suspension.
- A Sergeant was in eleven accidents over a period of nineteen years. Four of the accidents were deemed preventable, four were deemed non-preventable, there were no formal dispositions for two of the accidents, and the final accident in 1999 resulted in a reprimand.

7. Automobile Accidents (Continued)

- An officer was in auto accident making an illegal U-turn. There is no indication if injuries were sustained or the extent of damage to the vehicle(s). PBI recommended a reprimand that was revised to a two-day suspension by the Commissioner.
- An officer was in an accident that resulted in moderate damage to the vehicle. The PBI recommended a reprimand that was revised to a two-day suspension by the Commissioner. This officer had no prior disciplinary record.
- An officer was in an accident that resulted in injuries to three people and moderate damage to a vehicle. This officer had three prior preventable accidents. His commander recommended a one-day suspension. The PBI board found the officer not guilty of section 4.20 with no explanation. The Commissioner imposed a two-day suspension despite the not guilty verdict.
- An officer was in an auto accident and received a one-day suspension. This officer had two prior preventable auto accidents within the reckoning period, but no evidence of formal disciplinary actions pertaining to these two accidents.
- An officer who hit a parked car, left the scene of the accident and delayed in reporting the accident to a supervisor, received a one-day suspension.
- An officer was in preventable auto accident in 1996 and not formally disciplined. In 1999, the officer was in serious preventable auto accident in which two police vehicles are severely damaged and two officers are injured. The officer received a two-day suspension.
- In 1999, an officer was in two preventable auto accidents in one month. The officer pled guilty to one count of 4.20, despite two separate offenses and received a two-day suspension. This disciplinary action not evident in database, and as of September 2000, the suspension had not been imposed.
- An officer was in three preventable auto accidents in 1997 and 1998, yet never formally disciplined. In 1999, the officer was in a fourth preventable auto accident and received a three-day suspension.
- An officer was in auto accident in which four officers are injured and two police vehicles were severely damaged. The officer rejected an offer of a three-day suspension per Command Level discipline. The PBI Board found the officer guilty and recommended a one-day suspension that was accepted by the Commissioner.
- An officer was in two preventable auto accidents in one year, yet only formally disciplined for the second accident, receiving a one-day suspension.
- An officer who was in a preventable auto accident received a five-day suspension. His record revealed no prior history of auto accidents.
- An officer responding to emergency assignment with lights and sirens hit two vehicles causing minor damage and no injuries. This officer had no prior accidents or disciplinary history. The officer's Commander recommended a reprimand, PBI recommended a one-day suspension, and the Commissioner imposed a two-day suspension.
- An officer was in preventable auto accident resulting in moderate damage and injuries to three people. This was the officer's fourth preventable accident in six years. The PBI recommended a reprimand that was revised to a two-day suspension by the Commissioner.
- An officer was in two auto accidents within a six month period in 1996, however there is nothing in disciplinary file or database regarding these accidents. The officer was involved in three more accidents in 1998 and 1999. The officer received three days suspension for the first accident, a reprimand for the second, and a two-day suspension for the third. The officer was alternately charged under sections 4.20 and 4.65 for the various accidents.
- A Sergeant was in four auto accidents in three years. One was deemed non-preventable, the other three were deemed preventable. The Sergeant was only formally disciplined for one accident receiving a three-day suspension.

D. Lapsed/Suspended/Revoked Driver's Licenses

Lack of detail and inconsistency in application of penalty guidelines mandated by the Code was also prevalent in disciplinary actions alleging violations of section 5.84 ("Failure to notify Commanding Officer in writing whenever Pennsylvania Motor Vehicle Operator's License has been revoked, lapsed, suspended, or has expired") and section 5.85 which was added to the Disciplinary Code in 1992 and mandates dismissal if an officer's drivers license is revoked or suspended for thirty or more days. These Code provisions are particularly important since their violations mean that officers cannot perform their duties. One interesting pattern we found was that officer's charged with violations of Sections 5.84 or 5.85 oftentimes had employment histories that included auto accidents and other disciplinary actions.

We identified six cases in which disciplinary actions alleging violations of section 5.85 resulted in guilty verdicts, and yet only one officer was actually dismissed despite the fact that the Disciplinary Code mandates dismissal under these circumstances. Two of the officers received reprimands, one officer received a one-day suspension, one officer received a five-day suspension (in this case the PBI recommended a dismissal, but the penalty was subsequently reduced to five days by a former Police Commissioner Richard Neal), and another officer received a ten-day suspension.

In several files we reviewed alleging violations of section 5.84 there was no information regarding how long or why an officer's license had been revoked/suspended, making it impossible to ascertain whether the suspension/revocation was greater than thirty days thereby bringing the offense within the purview of section 5.85.

8. Driver's License Violations

- In 1995, an officer's license was suspended for several months for driving with no insurance, registration, inspection sticker, and an illegal license plate. The PBI Board recommended that the officer be dismissed. The Commissioner imposed a five day suspension
- An officer whose driver's licensed lapsed, pled guilty to violating section 5.84 and received a reprimand. The Commissioner revised the penalty to a one-day suspension. The officer grieved the suspension, despite pleading guilty, and the arbitrator reduced the penalty to a reprimand.
- An officer's license was suspended because he was in an auto accident and issued a ticket for failing to have insurance, which he never paid. The officer pled guilty to section 5.84 and received a reprimand.
- An officer whose license expired pled guilty to 5.84 and received a reprimand. This officer's disciplinary evaluation stated: "Attendance is poor. Officer has been carried without pay on the DAR 15 times since new shift started. Dependability and work ethics need vast improvement. Absent 24 of 61 days. Overall Satisfactory."
- An officer's license was expired for several months, yet the officer was charged with section 5.84 and received a one-day suspension. The officer should have been charged with section 5.85 and dismissed if found guilty of the offense.
 - Officer license expired - one-day suspension. One prior disciplinary action.
 - Officer license expired - one-day suspension. No prior disciplinary record.
 - Officer license expired - two days suspension. No prior disciplinary record

E. Contributing Factors

(a)Supervisor Accountability

In addition the various problems detailed throughout this report, inconsistency in the disciplinary process can also be attributed to the fact that some supervisors and commanders are reluctant to initiate formal disciplinary actions, viewing the process as cumbersome, interminable, and bad for morale. These commanders and supervisors prefer to bypass or ignore the system as much as possible. Other commanders expressed concern that bringing formal disciplinary actions could result in their becoming the target of EEOC investigations and being labeled sexist or racist.

Additionally, deployment practices of first and second line supervision in the Department that fail to take into account the supervision needs of each district are also responsible for inconsistent disciplinary practices. High crime districts are assigned the same number of sergeants and lieutenants as the relatively quiet districts. For example, in the busy 35th District, where over two hundred and forty-five officers are assigned, the Sergeant/officer supervisory ratio may be as high as seventeen officers to one sergeant per shift, while in the relatively quiet 5th district, where approximately a hundred officers

are assigned, the Sergeant/officer supervisory ratio may be seven or eight to one per shift. If a Sergeant does not report for duty because of injury or sickness, leave of absence, training, vacation, military reserve duty, or some other reason, another Sergeant can be responsible to covering for the absent supervisor's squad in addition to his/her squad. This results in unmanageable sergeant/officer supervisory ratios of twenty-five/thirty to one, and sometimes higher. In these not uncommon scenarios, one Sergeant is responsible for responding to major incidents, signing the activity logs of all officers on patrol throughout the shift, directing activity, monitoring special events, and handling a myriad of personnel issues for several squads.

The Department's current shift schedules also compromise meaningful and consistent supervisor/subordinate oversight since officers see their designated squad Sergeant on a sporadic basis, and may answer to several different supervisors, sometimes in a single shift.

If first and second line supervisors are to be held accountable for enforcing disciplinary standards consistently, thoroughly, and fairly, they need the necessary tools, time, and resources to do their jobs properly. This sentiment was made clear in a 1999 disciplinary action reviewed as part of this study, in which a domestic disturbance call resulted in several officers using their batons to effectuate the arrest of a resisting suspect. The supervising Sergeant of the officers who used force was charged with section 4.15 for failing to supervise his subordinates and failing to conduct a proper, thorough, and complete use of force investigation. The PBI Board concluded that on the day in question, the Sergeant was required to work as the Operations Room Supervisor in one of the busiest districts in the city, supervise a busy Detective Division, and to cover the street in a patrol capacity. The Board held that: "Not only is this "triple duty" completely unreasonable, it violates every principle of basic supervision with regards to the span of control for a line supervisor" and rendered a not guilty verdict. We reviewed several disciplinary actions in which the Board echoed this sentiment in the context of actions alleging failure to supervise.

The Department should therefore consider revamping its supervisory deployment strategies to more realistically address the specific personnel needs of the various districts and insure meaningful and acceptable supervisor/officer ratios.

Additionally, as was noted in a prior IAO report:

“Sergeants are in key positions to identify patterns, trends or problems . . . in their squads. . . and many sergeants do not make the mental, emotional, and professional break or transition necessary to be effective supervisors. Many fraternize with and identify too closely with officers under their command. The dual role of cop’s buddy and cop’s supervisor conflict, and do not allow or encourage the type of objective and professional oversight and review that is necessary to make the hard decisions or ask the tough questions.

The skills and experience necessary to be an effective front line supervisor in the Philadelphia Police Department affect a broad range of critical issues and operations. Sergeants set the tone and standards for their squads and play an integral and critical role in achieving the goals and imparting the values of the Department. If a sergeant, explicitly or tacitly, permits unacceptable behavior or concurs with untruths instead of correcting problems, then erosion of authority and non-compliance with Departmental policies and values are inevitable.”

Under current city Civil service Regulations, a police officer can be promoted to sergeant after two years experience on the force. This is simply not an adequate time period in which to thoroughly experience, understand, and absorb the complexities of policing, let alone police supervision, in a large urban environment.

In light of the critical role of the Sergeant, the IAO recommended that a minimum of five years patrol experience be an eligibility prerequisite for taking the Sergeant’s promotional exam, that the nature and scope of the Sergeant’s exam be thoroughly assessed for relevance, and that a more meaningful and comprehensive evaluation of the officer’s experience and qualifications become integral to the promotional process. These recommendations reflect our continued overall view that the current promotional processes in the Police Department are fundamentally flawed and not designed to advance the most qualified and potentially effective managers and leaders in the Department.

Additionally, while the quality and consistency of pre-promotional training has improved over the past three years, it is limited in duration and scope. Further training, monitoring, and mentoring of first and second line supervisors after these pre-promotional training classes is still necessary. This argues for establishing consistent deployment practices that would partner experienced supervisors with newly promoted Sergeants and Lieutenants, particularly those who are assigned to the busiest districts and units, to help them further develop their supervisory skills and knowledge.

(b) Conclusion

The inherent subjectivity of the disciplinary process, extraneous political, economic, and other considerations which are inappropriately interjected into disciplinary actions, and the various weaknesses in the system detailed throughout this report contribute to and perpetuate the problems identified in the Department's disciplinary system.

Addressing these various factors and forces is a complex undertaking which must begin by ensuring that the Department's values, standards, rules, and processes as it relates to acceptable codes of conduct are clearly and consistently defined, communicated, and enforced. The weaknesses in the current system are indicative of disciplinary standards, values and expectations that are, to a certain extent, malleable and lacking in clarity.*

It is also essential that ancillary considerations irrelevant to a disciplinary action be extricated from the disciplinary process to the greatest extent possible. This of course is easier said than done, but not altogether impossible. Reasonable and appropriate disciplinary standards and values which are enforced and supported by the City's leadership and the Police Commissioner, in the face of many competing pressures, would be instrumental in establishing objectivity, consistency, and fairness in the disciplinary system and creating a culture of accountability that will improve the values, integrity, and morale of Philadelphia police officers.

*This lack of clarity was vividly illustrated at a Department wide commanders meeting in 1999, attended by the IAO, in which the Department's expectations, policies, and practices related to discipline was a main topic. During this meeting, vastly differing viewpoints on discipline were presented by high level officials in the Department. This controversial presentation created a general sense of bewilderment throughout much of the command staff that persists to this day.

VII. ADDITIONAL CONSIDERATIONS

A. Complainant Notification

Executive Order 9-93, requires that: "The disposition of [citizen complaints against police] including any disciplinary action, shall be communicated in writing by certified mail, to the officer against whom the complaint has been lodged, the complainant and the alleged victim of police misconduct (if other than the complainant)."

In a prior audit conducted by the IAO, numerous disciplinary files were identified in which the letters to complainants regarding the outcome of their PBI hearings were either misleading or totally inaccurate. For example, there were cases in which the letter stated that the officer was found "guilty" and "suitably disciplined" when the case had been dismissed. In that report we recommended that a system be established to insure the accuracy of these notification to citizens regarding the outcome of their complaints. This study has revealed that this problem has not been satisfactorily addressed by the Department, and has in fact deteriorated since the Department has ceased sending letters to complainant's altogether in violation of Executive Order 9-93.

This problem was particularly acute in disciplinary actions alleging violations of Section 1.45 that pertains to misconduct such as verbal abuse, rudeness, and physical abuse by officers. These investigations arise from civilian complaints and may become the subject of formal disciplinary action if IAD sustains the complainant's allegations. In nearly thirty disciplinary files alleging violations of section 1.45 reviewed as part of this audit, we only identified one case in which the complainant was notified of the results of the PBI hearing, and the contents of the letter were inaccurate. In that case the officer had been charged with two counts of section 1.45 for physically abusing a fifteen year old male during an arrest for obstruction of the highway. The IAD investigation sustained the allegations of abuse, but the PBI found the officer not guilty claiming that officer was more credible than the complainant. The letter to complainant indicated that the officer was "suitably disciplined".

We could not identify any policy or system in place for ensuring that complainant's are notified of the results of their complaints in a timely and accurate fashion. Citizen's who take the time to file and follow through on their complaints against the Department, which is a time consuming, interminable, and largely unpleasant

process, deserve a timely and accurate response from the Department regarding the outcome of their complaints.

B. Performance Evaluations

In a prior study conducted by the IAO, we reported on major flaws in the Department's personnel evaluation system that rendered evaluations ineffectual and virtually meaningless. In that report we presented numerous recommendations to improve the system noting that:

"The importance of meaningful and accurate personnel performance evaluations cannot be overestimated. The lack of meaningful and accurate evaluations precludes effective personnel management in terms of assignment, promotions, commendations and discipline. Records that fail to document any prior problems, but indicate only a "satisfactory" performance history weaken the City's legal defense in labor arbitrations challenging the imposition of discipline. This has contributed to the reinstatement of dismissed officers and the reversal or lessening of disciplinary action taken."

Problems with the personnel evaluation processes in the Department were highlighted again in this study, and it is clear that no progress has been made since the issuance of our prior report several years ago*. We reviewed numerous cases in which there was evidence of an officer's prior and ongoing inappropriate conduct, and a supervisor's knowledge of such conduct, yet nothing to that effect reflected on the officer's evaluation reports. We reviewed arbitration files that cited regular yearly evaluation reports indicating "satisfactory" performance, as a basis for overturning dismissals or reducing penalties. We reviewed discipline files where evaluations submitted in conjunction with the 75-18's were diametrically opposed to the yearly performance evaluations contained in the officer's personnel files, even though these different evaluations pertained to the same time period.

Critics of our recommendations regarding performance evaluations have argued that the inherent subjectivity of personnel evaluations renders them of little value. As we stated in our prior study "We recognize that evaluating and judging the performance of fellow workers is a time consuming and delicate task and that no performance evaluation

*Apparently no yearly performance evaluations were submitted at all in 1997. In our prior study we reported that yearly personnel evaluations were also not submitted in either 1992 or 1993. This is further indication of the minimal importance of personnel evaluations in the Department.

system will ever be completely flawless or free of some element of subjectivity.” However, by clearly defining, communicating, enforcing, and supporting the Departments objectives, goals, and values, it is possible to establish an improved uniform and objective evaluation system that could be an invaluable tool for enhancing the professionalism of the force, and not simply a device for detecting failure.

Consideration should also be given to establishing a more regular personnel review system, possibly on a monthly, or at the very least, a bi-monthly basis. These evaluations would insure a more comprehensive and timely assessment of officers’ work performances, both the positive and negative. Such a system would enable Sergeants and Lieutenants to recognize and address emerging problems before they become more serious. This information would be invaluable for issues related to assignments, transfers, promotions, discipline, commendations, awards, training needs, and could be used in the preparation of annual evaluations that are more realistic, comprehensive, informative and useful. Requiring these reports for all employees, with clearly delineated standards and expectations, will minimize the concern for, or perception of, the process being used to unfairly target specific individuals.

9. PERFORMANCE EVALUATIONS

- An officer was the subject of seven disciplinary actions in a three-year period, three of which resulted in extensive suspensions. This officer was denied a transfer because the commander of the district requested by the officer found the officer not "punctual, reliable or concerned". Despite this record, the officer's commander in his current assignment submitted glowing evaluations regarding the officer's work performance. When the officer grieved a subsequent thirty-day suspension for a serious disciplinary infraction, the arbitrator specifically referred to the officer's excellent evaluation history as one basis supporting his decision to rescind the suspension.
- An officer received a satisfactory in all categories (including quality of work) on the evaluation form, despite the fact that the officer had been on sick and vacation status for the entire evaluation period.
- An officer's yearly 1999 evaluation indicated that the officer had "carried out all assignments and performed your duties in a satisfactory manner." The PBI disciplinary evaluation submitted by the same supervisor five months later indicated: "[Officer] has been under my supervision since her arrival from the Police Academy. I have found [the officer] to be a constant discipline problem as well as in need of constant supervision. I must continually have [the officer] correct her paperwork. [Officer] has been counseled by myself as well as other supervisors about her unprofessional behavior". This officer was eventually dismissed for associating with drug dealers and convicted felons, providing drug dealers with information regarding police narcotics investigations, and numerous other offenses.
- An officer was appointed to the force in September 1995, completed recruit training in February 1996, received a satisfactory yearly evaluation in 1996, no evaluation in 1997 and a satisfactory evaluation in 1998. However, the supervisor's evaluation memo submitted in conjunction with the 75-18's indicated that this same officer "did minimal amount of work and appeared not to interact with other members. As a result of her obvious disrespect for other members of the Department I would rate her overall unsatisfactory".
- An officer with four years on the force and an extensive disciplinary history was found guilty of section 4.10 ("Absence without leave for less than five consecutive working days") and received a several day suspension. The PBI Board noted that the "Officer needs more counseling for self destructive conduct which appears to be worsening. . . Employee Assistance Program at the least" All of this officer's yearly evaluations indicated "satisfactory" in all categories, including 1998 when the officer had four formal disciplinary actions, two of which resulted in significant suspensions.
- A detective was arrested in another state for Driving While Intoxicated and Receiving Stolen Property for driving an unregistered car with stolen tags. He pled guilty to refusing to submit to a Breathalyzer and driving with stolen tags, which were traffic violations in that state. The detective's driver's license was suspended for six months and he was subsequently dismissed from the force pursuant to section 1.75. In seeking reinstatement to the Department, an arbitrator held that "In order to sustain a discharge, the employer must establish the case with clear and convincing evidence, particularly when the employee has long service and a good work record." The arbitrator looked at the detective's yearly performance ratings that were all "satisfactory" and reinstated the detective with back wages. However, there was other evidence that the detective had an ongoing alcohol problem that was severe enough to prompt his supervisor to force the detective into a rehabilitation center. This arbitrator also found that section 1.75 was not appropriate charging in these circumstances.)

C. LABOR ARBITRATION SYSTEM

1. Aberrant Arbitration Opinions

During the course of this audit the IAO reviewed disciplinary actions that were overturned or revised by labor arbitrators. These arbitration decisions were oftentimes rendered despite the wide array of due process rights and protections, and multiple levels of review and scrutiny, afforded officers who are formally disciplined; despite exhaustive and expensive IAD investigations into allegations of corruption and misconduct that were ultimately sustained; and despite, in some cases, independent review by the District Attorney's Office which found sufficient legal and factual basis to justify officers' arrests for such crimes as rape, theft, aggravated assault, and driving while intoxicated.

It became clear that the labor arbitration system was impacting on the Police Department's ability and efforts to effectively discipline its officers. For this reason, this study of the disciplinary system was expanded to include review of the labor arbitration system.

As part of this study we attempted to review all disciplinary arbitration opinions rendered between 1990 and 1999 in which arbitrators reinstated officers back onto the force after being dismissed, upheld the City's dismissals of officers, or reduced or rescinded suspensions, demotions or transfers that had been imposed by the Department. Our purpose was to see if there were any patterns or trends that could account for these results and to make recommendations that could improve the process. We obtained copies of these arbitration opinions from the Department's Labor Relations Unit that was first established in December 1994. Prior to 1994, the Department did not have a centralized and consistent system for monitoring and tracking labor cases involving the Department. For this reason, we cannot state with certainty whether these one hundred and thirty opinions are a comprehensive accounting of all arbitrations in these categories for this time period.

In fifty of these opinions, arbitrators reinstated the officers back onto the force after they had been dismissed, oftentimes for criminal conduct. In thirty arbitration opinions in which an officer had challenged his or her dismissal, arbitrators upheld the dismissals and the City was not forced to reinstate these officers. In another fifty of these arbitration opinions, arbitrators reduced or rescinded suspensions, demotions or

transfers that had been imposed by the Department for a wide range of infractions, some of which were extremely serious in nature.

Many of the arbitration opinions rendered appeared reasonable in light of the facts and circumstances of the cases. However, a number of arbitration decisions were disturbing. In these cases the arbitrators found that the City had in fact proved the allegations of misconduct, but then reinstated the officer who had been dismissed, or reduced or rescinded suspensions, transfers or demotions, alleging either that the penalty was excessive or that the police officer was improperly penalized for what amounted to bad judgment. In all but one of the cases, the Police Commissioner did not exceed his authority, imposing penalties that clearly fell within guidelines of the Department's Disciplinary Code.

As a result these arbitration awards, the Department has been forced to reinstate police officers who have exhibited behavior that seriously implicates their ability to perform the duties of police officer.

The IAO further conducted an assessment of the work performances of the fifty officers before and after their reinstatements by arbitrators. This involved reviewing, among other records, the various officer's personnel files, Internal Affairs records, background investigation and disciplinary files.

In some of these cases, the officers returned to the force and appeared to have trouble free careers. Two of these officers were subsequently promoted; others received numerous commendations for valor, bravery, and merit. These officers apparently benefited from their second chance.

However, some of these reinstated officers continued to be what have been called the Department's "problem children". A number of these officers were subsequently fired a second time for serious misconduct, one was fired three times. Several others had already been fired once before and returned to the force. The arbitration opinions reviewed for this study pertained to their second dismissal. Others had repeated contacts with the disciplinary system resulting in extensive suspensions, or were the subject of investigations by the Internal Affairs Division. Some had work histories which included repeated auto accidents, chronic tardiness, abuse of sick leave,

2. Reinstatements After Arrest

In twenty-nine arbitration opinions reviewed, the officers were dismissed as a result of being arrested. In the subsequent criminal prosecutions, twenty of these officers were acquitted in court, five officers had their criminal charges dismissed or withdrawn, one officer had the misdemeanor charges withdrawn and pled guilty to two summary offenses, and three officers were given ARD (Accelerated Rehabilitation Disposition) which enabled them to subsequently expunge their criminal records.

Officers dismissed from the force as a result of being arrested presents a particular dilemma for the Department. Per Department policy, dismissal is mandated in any situation in which an officer is arrested, however, as for a variety of reasons, judges and juries are reluctant to convict police officers. In these situations, the precipitator of the dismissal - the officers' arrest - is no longer a relevant factor and many officers then seek reinstatement to the Department. In twenty four of the twenty-nine cases cited above the officers succeeded in being reinstated.*

The burden of proof to obtain a criminal conviction is "beyond a reasonable doubt". This is a considerably stricter burden than the arbitral standard which is either "a preponderance of the evidence" or "clear and convincing evidence".** Thus, a failure to obtain a criminal conviction does not necessarily mean that the officer's dismissal or other types of disciplinary action are not warranted.

In light of the above, the Department should handle dismissals resulting from arrests based on the assumption that the Commonwealth may not prevail on the criminal charges and that the officer will most likely seek reinstatement. In these cases, the Department should develop, at the outset, thorough and well-documented investigative and disciplinary files which involves obtaining and preserving as much credible,

*Eight of these cases involved officers who were arrested for domestic violence and/or violating Protection from Abuse Orders (PFAO). Two of these officers continued their patterns of domestic abuse after being reinstated, one officer was fired again, another officer was put on restricted duty because a subsequent PFAO prohibited the officer from carrying a firearm, and another officer's IAD record revealed a propensity to use excessive force in the course of his duties.

**Some arbitrators have applied the "beyond a reasonable doubt" standard which is clearly improper, but which under the current legal standards as described briefly in Section VIIC(1) of this Report, the City has no ability to appeal.

be overstated since community relations between the Department and the City's residents which it serves, as well as the reputation of the Department itself can be seriously damaged as a result of a finding that any one of the Department's officers, either on or off-duty, has failed to take appropriate action when any resident is threatened by physical harm." Despite this analysis, the arbitrator ordered the officer reinstated, with nearly five years in back wages and benefits for the time period in which his dismissal was effective. The officer received the cash settlement and resigned from the Department a short time later.

Officers who are awarded back pay as a condition of reinstatement are required to deduct from the arbitration award any interim earnings during the period of discharge. However, the Department does not conduct thorough investigations into an officers' earning history during the period of dismissal. Since many officers are dismissed from the force for several years before reinstatement, it is likely that some of these officers earned an income in some capacity in the interim. In these situations, officers may in fact be profiting from their misconduct since the arbitration awards and additional earnings may result in officers more than doubling their annual salaries as a result of being dismissed.

The IAO strongly recommends that the Department undertake aggressive, thorough, and meaningful investigations into an officer's income sources and earnings during their periods of dismissal from the force in the event they are reinstated with back pay.

EXHIBIT A

Table of Contents

	<u>Page</u>
Introduction	
Article I	1-2
Article II	3
Article III	4
Article IV	5-6
Article V	7-9

January 1999

ARTICLE I (Continued)

CONDUCT UNBECOMING AN OFFICER

<u>Section</u>	<u>Charge</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>Reckoning Period</u>
1.35	Fighting or quarreling with members of the Department while one or both are on duty.	Reprimand to 10 days	10 to 20 days	20 days to Dismissal	2 years
1.40	Soliciting for attorneys' bondsmen, or other business persons or firms for personal gain.	30 days to Dismissal	Dismissal	-----	2 years
1.45	Using rude or insulting language or conduct offensive to the public while on duty.	Reprimand to 5 days	5 to 10 days	15 to 20 days	2 years
1.50	Releasing police information or policy without authority, acting in the capacity of speaking for the Department or the Commissioner.	Reprimand to 5 days	5 to 10 days	10 to 20 days	2 years
1.60	Odor of alcohol on breath while on duty.	Reprimand to 10 days	10 to 15 days	25 to 30 days	2 years
1.75	Repeated violations of Departmental rules and regulations, and/or any other course of conduct indicating that a member has little or no regard for his/her responsibility as a member of the Police Department.	30 days to Dismissal	Dismissal	-----	-----
1.80	The use of a controlled substance by any member is prohibited except when prescribed in the care and treatment of a member by a licensed medical practitioner.	Dismissal	-----	-----	-----

ARTICLE II
INTOXICATION

<u>Section</u>	<u>Charge</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>Reckoning Period</u>
2.01	On duty.	30 days to Dismissal	Dismissal	-----	2 years
2.05	Off duty, in uniform	15 to 30 days	30 days to Dismissal	Dismissal	2 years
2.10	Off duty, not in uniform and arrested.	5 to 15 days	30 days to Dismissal	Dismissal	2 years
2.15	Off duty, in part of uniform.	5 to 10 days	15 to 20 days	25 to 30 days	2 years

ARTICLE IV
NEGLECT OF DUTY

<u>Section</u>	<u>Charge</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>Reckoning Period</u>
4.01	Failure to take police action, on or off duty, in or out of uniform, and/or failure to make the required written report.	Reprimand to 10 days	10 to 30 days	15 days to Dismissal	2 years
4.05	Asleep on duty.	2 to 5 days	15 to 20 days	Dismissal	2 years
4.10	Absence without leave for less than five (5) consecutive working days.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
4.15	Failure to properly supervise subordinates; or to prefer disciplinary charges; or to take other appropriate disciplinary action.	Reprimand to 5 days and or demotion	5 to 10 days and or demotion	15 to 20 days and or demotion	2 years
4.20	Failure to comply with any Commissioner's Orders, Directives, Regulations, etc., or any oral or written orders of superiors.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
4.25	Failure to conduct proper, thorough, and complete investigation or failure to thoroughly search for, collect, preserve and identify evidence of persons, property and locations in any arrest or investigation.	Reprimand to 5 days	5 to 10 days	10 to 20 days	1 year
4.35	Failure to report as witness when duly notified or subpoenaed.	Reprimand to 5 days	5 to 10 days	15 to 30 days	1 year
4.40	Allowing prisoner to escape through carelessness or neglect.	Reprimand to 10 days	15 to 20 days	25 to 30 days	1 year

ARTICLE IV (Continued)

NEGLECT OF DUTY

4.50	Failure to properly patrol beat or sector; unauthorized absence from assignment; failure to respond to radio call; idle conversation or loafing.	Reprimand to 5 days	5 to 10 days	15 to 20 days	2 years
4.60	Failure to remove keys from police vehicle when unattended.	Reprimand to 5 days	5 to 10 days	15 to 20 days	2 years
	If stolen due to above.	Reprimand to 10 days	15 days to Dismissal	Dismissal	2 years
4.65	Loss or damage to Police Department property resulting from negligent action or from failure to properly care for same.	Reprimand to 5 days and/or restitution	5 to 10 days and/or restitution	15 to 20 days and/or restitution	1 year

ARTICLE V

DISOBEDIENCE OF ORDERS

<u>Section</u>	<u>Charge</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>Reckoning Period</u>	
5.01	Soliciting money or any valuable thing without proper authorization.	5 to 10 days	15 to 20 days	25 to 30 days	2 years	
5.02	Instituting a private criminal complaint as the result of dissatisfaction with the outcome of an official police action.	Reprimand to 5 days	5 to 10 days	15 days to Dismissal	2 years	
5.03	Instituting civil action arising from police duty, without notifying the Claims Division, Law Department.	Reprimand to 5 days	5 to 10 days	15 days to Dismissal	2 years	
5.06	Being found in an alcoholic beverage licensed establishment, in full partial uniform, while not in performance of police duty.	Reprimand to 10 days	15 to 20 days	25 to 30 days	2 years	
5.09	Constructive possession of alcoholic beverages on the person, in police vehicle, or on any police property.	5 to 10 days	15 to 20 days	25 to 30 days	2 years.	
		<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>4th Offense</u>	<u>5th Offense</u>
5.12	Violations of sick leave procedures.	Written warning	1 day	3 days	10 days	May be Discharged

ARTICLE V (Continued)

DISOBEDIENCE OF ORDERS

		<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>Reckoning Period</u>
5.15	Failure to follow Departmental procedures for the handling of evidence, personal effects, and all other property taken into custody.	Reprimand to 5 days	5 to 10 days	Dismissal	2 years
5.18	Improper use, handling or display of firearms	Reprimand to 30 days and/or Dismissal	-----	-----	2 years
5.24	Having or operating private auto on beat or driving to or from beat or post without authorization.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.27	Failure to report on or off assignment as prescribed.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.33	Tardiness.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.36	Changing residence without giving 24 hours prior notification.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.39	Unauthorized persons in police vehicle.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.48	Failure to carry required equipment, not in full prescribed uniform, and failure to present a neat appearance in prescribed uniform in accordance with Policy and Directives	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.54	Omitting, altering, or abbreviating title when addressing any superior officer.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year

ARTICLE V (Continued)

DISOBEDIENCE OF ORDERS

<u>Section</u>	<u>Charge</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>Reckoning Period</u>
5.57	Failure to properly salute, when in uniform, the Mayor, Commissioner, Deputy Commissioners or a uniformed superior officer.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.60	Communicating or imparting confidential police information, either in writing or verbally, to unauthorized persons.	5 days to Dismissal	20 days to Dismissal	Dismissal	1 year
5.63	Failure to give prescribed identification when answering phone or refusal to give name and badge number when properly requested, while on duty.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.69	Possession and/or reading newspapers, books, or periodicals while on duty.	Reprimand to 5 days	5 to 10 days	15 to 20 days	1 year
5.75	No one shall, without being subpoenaed and previously notifying the Police Commissioner, appear or give testimony as a character witness for any defendant in a criminal trial or inquiry.	5 to 15 days	15 to 30 days	Dismissal	2 years
5.78	Engaging in any unauthorized remunerative occupation other than the duties of said employment of the City of Philadelphia.	5 to 10 days	15 to 20 days	25 to 30 days	1 year
5.80	Willfully damaging Police Department property and/or equipment.	Dismissal	-----	-----	-----
5.81	Interference with Police Radio broadcasting and tampering with Police Radio equipment.	Dismissal	-----	-----	-----

ARTICLE V (Continued)

DISOBEDIENCE OF ORDERS

<u>Section</u>	<u>Charge</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>Reckoning Period</u>
5.84	Failure to notify Commanding Officer in writing whenever Pennsylvania Motor Vehicle Operator's License has been revoked, lapsed, suspended, or has expired.	Reprimand to Dismissal	-----	-----	-----
5.85	Driver's license revoked or suspended for thirty (30) days or more while a sworn member of the Philadelphia Police Department.	Dismissal	-----	-----	-----